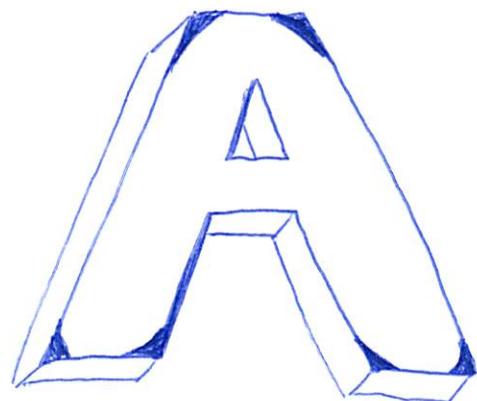


EXHIBIT



UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW HAMPSHIRE

* * * * *

UNITED STATES OF AMERICA *

*

v. * CR. 98-131-01-M

CHAD E. AUSTIN * November 12, 1999

*

9:40 a.m.

* * * * *

TRANSCRIPT OF DISPOSITION
BEFORE THE HONORABLE STEVEN J. McAULIFFE

Appearances:

For the Government: Donald Feith, Esq.
U.S. Attorney's Office
55 Pleasant Street
Concord, NH 03301

For Probation: Denis Linehan
U.S. Probation Office

For the Defendant: Chad Austin, Pro se

Standby counsel: Bjorn Lange, Esq.
Federal Defender's Office
22 Bridge Street
Concord, NH 03301

Court Reporter: Diane M. Churas, CSR, RPR
Official Court Reporter
United States District Court
55 Pleasant Street, Rm. 110
Concord, NH 03301
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COPY

1 BEFORE THE COURT

2 THE CLERK: We have for consideration this
3 morning a sentencing in the matter of United States
4 versus Chad Austin, Criminal Case No. 98-131-01-M.

5 THE COURT: All right. Mr. Austin, are you
6 representing yourself this morning or Mr. Lange?

7 MR. LANGE: Your Honor, I'm going to start
8 as standby counsel. I think I have a better handle on
9 some of the issues. The defendant wants to raise
10 other issues that I don't want to raise.

11 THE COURT: All right. Mr. Austin, have you
12 had an opportunity to review the presentence
13 investigation report with Mr. Lange?

14 MR. AUSTIN: Yes, I have.

15 THE COURT: The report will be placed in the
16 record under seal. If an appeal is taken from the
17 sentence imposed, both parties will have access to the
18 report for the purposes of appeal.

19 All right, Mr. Lange, what issues would you
20 like to raise?

21 MR. LANGE: I had sent a letter to the
22 probation officer earlier this week after my client
23 and I reviewed the presentence investigation first
24 draft last Friday. I stand by the objections laid out
25 in that letter, except for the \$2,000 enhancement for

1 the theft of the -- interstate transportation of the
2 Jetta. I received on Wednesday facsimile
3 documentation of the value of that loss, so I withdraw
4 that objection.

5 I stand on my other objections, and they are
6 as follows: I object to the two-level enhancement
7 laid out in paragraph 22 of the PSI for the Hardy
8 children being vulnerable victims for the reasons laid
9 out in my letter of November 6th, appended to the
10 amended probation investigation report. And those
11 reasons, simply stated, are that when my client
12 crashed through the glass of that slider at 9 Pope
13 Street in Salem, he had no idea who, if anybody, was
14 inside that house. He was going through that window
15 to escape the numerous law enforcement officers that
16 were in pursuit. There had been gunfire prior to him
17 going into the Hardy home.

18 The children left the home well prior to Mr.
19 Hardy getting into an altercation with Mr. Austin,
20 whereafter Mr. Austin was quickly apprehended and
21 taken into custody.

22 My recollection, although I'm not sure this
23 is in the trial record up here, is that at some point
24 those two twins were asleep during the time the
25 defendant was present in their parents' home.

1 For those reasons I would argue that there
2 not be a two-level enhancement based on the Hardy
3 children.

4 THE COURT: You don't contest they're
5 vulnerable victims. Your argument is he didn't know
6 it.

7 MR. LANGE: That's right, your Honor.
8 That's right. I mean I understand by age, four years
9 old would be vulnerable. My position is that their
10 status, their age, had nothing to do with Mr. Austin's
11 conduct. It's not a case where he sought out those
12 children by virtue of anything. He had no idea who
13 was in the house when he broke through the glass.

14 The next objection --

15 THE COURT: Why don't we take them one at a
16 time if you don't mind. Mr. Feith?

17 MR. FEITH: Your Honor, briefly, the
18 application of the adjustment doesn't require that
19 sort of knowledge. The example used in the commentary
20 is a robber who takes a handicapped victim.
21 Presumably a robber who goes into a bank and finds a
22 handicapped victim in the bank didn't know that person
23 necessarily was in the bank, and I don't believe the
24 government would have to prove he did, as long as he
25 takes them as a hostage or uses them in a way that the

1 vulnerable victim enhancement applies.

2 The cases that I cited in my memo also
3 talked about targeting. And after Application Note 3
4 was withdrawn in 1995 -- there was an argument prior
5 to that date that targeting was indeed required, but I
6 think the Gill case says, at least since the
7 withdrawal of that note by the Sentencing Commission,
8 targeting is not required.

9 THE COURT: All right. Thank you, Mr.
10 Feith. That objection is overruled. Mr. Lange, I
11 find that the continued holding by Mr. Austin of the
12 young children as hostages during the course of the
13 kidnapping -- basically at some point he certainly was
14 aware that he was holding vulnerable children in a
15 very, very dangerous position. So that objection is
16 overruled.

17 MR. AUSTIN: Hold on just a minute. Your
18 Honor, I'd like to do this. I'd like Mr. Lange not to
19 do this.

20 THE COURT: Well, that's certainly your
21 right. Once again, let me remind you, you're not
22 qualified. You really don't know what you're doing.
23 You can't possibly help yourself. You're probably
24 going to hurt yourself. But it's your right to go
25 ahead and hurt yourself if that's what you want to do.

1 MR. AUSTIN: Last time you told me that I
2 was driving into a brick wall at a hundred miles an
3 hour by myself. Well, if I'm going to do that, I'd
4 rather be sitting in the driver's seat than in the
5 passenger seat.

6 THE COURT: The Constitution gives you that
7 right, Mr. Austin, so you go ahead.

8 MR. AUSTIN: Let's start with 17th.

9 THE COURT: Well, this isn't like a free
10 opportunity to just filibuster. You have to raise
11 objections related to the presentence investigation
12 report based upon the guidelines. So let's not start
13 with a review of the presentence investigation
14 report. Tell me what your objection is, and then
15 we'll discuss what the legal merits of it are.

16 MR. AUSTIN: Okay. My objection is that
17 it's a double count. 17 and 18 is a double count.
18 Because in the guideline for bank robbery -- in this
19 presentence investigation, if you go to page three, it
20 gives the definition of a financial institution.
21 Financial Deposit Institution Corporation, which is
22 counted in in the basic offense level for bank
23 robbery, which is an offense level of 20; right? So
24 No. 18 with the two-point enhancement is already added
25 in on No. 17. So it's a double count.

1 THE COURT: I guess I'm not following you.

2 MR. AUSTIN: Okay. Paragraph 17 of the PSI.

3 THE COURT: Right.

4 MR. AUSTIN: Okay. Gives me a base offense
5 level of 20 for bank robbery.

6 THE COURT: Yes.

7 MR. AUSTIN: Okay. 18 goes on to -- it's a
8 two-point enhancement because they say it's not a
9 financial institution. But if you go to page three,
10 in the definition of bank robbery in this PSI, it says
11 the deposit of this financial institution being
12 insured by the Federal Deposit Incorporation, FDIC.

13 THE COURT: Yes. But actually the guideline
14 is 2B3.1. 2B3.1 is for robbery of any kind, robbery
15 of your neighbor, robbery of anybody.

16 MR. AUSTIN: So why does it say bank
17 robbery?

18 THE COURT: Because you start with 20 for
19 robbery, any kind of robbery. Any kind of robbery is
20 20. Then you go down to (b). And (b)(1) is if you've
21 robbed a financial institution or post office, then
22 you get two more.

23 You robbed someone, so you get 20, and you
24 robbed a financial institution, so you get two more.
25 So that's 22.

1 MR. AUSTIN: Right.

2 THE COURT: So that's correct.

3 MR. AUSTIN: There's no argument for that
4 whatsoever.

5 THE COURT: Not that I can see.

6 MR. AUSTIN: Okay.

7 THE COURT: I mean you did rob a bank. That
8 is a financial institution and it is robbery. That's
9 22.

10 MR. AUSTIN: So the Sentencing Commission
11 Guideline doesn't count in the bank?

12 THE COURT: No, because -- you're starting
13 ahead of yourself. The first step is did you rob
14 someone, anybody? Answer, yes. What do you get for
15 robbing someone? You get 20. What if it was a bank
16 as opposed to your neighbor? Well, you get two more.
17 So 17 and 18 are correct.

18 MR. AUSTIN: On that 17 and 18, say it
19 wasn't a bank you robbed. Say it was something
20 different.

21 THE COURT: Well, it wasn't. It was a bank.

22 MR. AUSTIN: I understand that. And I'm
23 charged with bank robbery. Count 1 is bank robbery;
24 right?

25 THE COURT: That's correct.

1 MR. AUSTIN: So it gives me an offense level
2 of 20. That's what I'm seeing.

3 THE COURT: No. Robbery gives you 20. Bank
4 robbery gives you 22. 20 for robbery, two for bank,
5 22.

6 MR. AUSTIN: Okay.

7 THE COURT: All right. Any other
8 objections?

9 MR. AUSTIN: Yeah. I'd go to 20 and 22 on
10 the same page. 20 says that I physically restrained
11 people in the Hardy home, which is in Massachusetts.
12 22 is the same count. It's using the same conduct as
13 20.

14 THE COURT: No. Once again, 20 says you
15 restrained somebody. 22 says you restrained people
16 who were particularly vulnerable. That's what Mr.
17 Lange just raised.

18 MR. AUSTIN: Right.

19 THE COURT: So you get plus two if you
20 restrain anybody. You get another two if they're
21 particularly vulnerable.

22 MR. AUSTIN: It's the same thing.

23 THE COURT: No, it isn't, because you can
24 restrain people who aren't particularly vulnerable.

25 MR. AUSTIN: So the way you read that and

1 the way the law states that, it doesn't say -- it says
2 that if there's three people in that home --

3 THE COURT: No. What it says is, if you
4 restrain someone physically, add two. If the people
5 you restrained physically happened to be particularly
6 vulnerable, add another two. You restrained people,
7 the Hardys. The Hardy boys were particularly
8 vulnerable. So you get two for restraining people and
9 another two for restraining people who were
10 particularly vulnerable, the boys.

11 MR. AUSTIN: Okay.

12 THE COURT: That objection is overruled as
13 well.

14 MR. AUSTIN: All right. 23 and 25 are
15 double counted. Official victims. Official victim is
16 somebody that's -- an officer is not an official
17 victim when he's acting under his lawful duties. He's
18 not an official victim. Official victim would be if I
19 sought out the prosecutor knowing he was a
20 prosecutor. That's an official victim. A police
21 officer is not an official victim in the line of
22 duty. He's just doing the duties that are required of
23 him.

24 Not to mention that I took the trial to
25 Massachusetts, and I've already been charged for them

1 crimes in Massachusetts.

2 THE COURT: I guess I'm not sure what your
3 argument is on 3A1.2. 3A1.2(b), which is the
4 reference the probation officer has given, provides
5 that you get a three-level increase if, during the
6 course of the offense or immediate flight therefrom,
7 the defendant, knowing or having reasonable cause to
8 believe that a person was a law enforcement or
9 corrections officer, assaulted such officer in a
10 manner creating a substantial risk of serious bodily
11 injury.

12 There's no doubt that you did that; right?

13 Shooting at a police officer who was chasing you --

14 MR. AUSTIN: Where did you just read that
15 from, if you don't mind me asking?

16 THE COURT: Not at all. 3A1.2(b). Do you
17 have a copy of the guidelines there, Mr. Lange, by
18 any chance? You're looking at the presentence
19 investigation report, Mr. Austin. That makes
20 reference to the guideline section --

21 MR. AUSTIN: Yeah, I know.

22 THE COURT: -- that's applicable.

23 MR. AUSTIN: I know, sir.

24 THE COURT: So you have to then look at the
25 guideline section in the book.

1 MR. AUSTIN: Official victims in the way
2 that this is written right here though states that --
3 the meaning of that, the officers are not official
4 victims.

5 THE COURT: Well, what you really have to do
6 -- that's the title of the guideline section. So you
7 really have to go to the book. And if you'll see the
8 title of the Section 3A1.2, that title is "Official
9 Victim," and then there's two parts to it, (a) and
10 (b). And the probation officer has referenced
11 Part (b).

12 So "official victim" means what Part (b)
13 says it means. And in Part (b) it says, if you, with
14 cause to believe or knowing that a police officer is
15 involved, assault such officer, then you get three
16 more.

17 You knew or had reason to believe a police
18 officer was involved and you were shooting at him, so
19 you get three more.

20 MR. AUSTIN: Yeah, but I went to trial on
21 that stuff in Massachusetts. The way that this reads
22 in this, you're basically giving me more time -- every
23 offense level, you bump this up, the three points. I
24 went to trial on that stuff in Massachusetts. So
25 isn't that like a double jeopardy?

1 THE COURT: I'm not sure you went to trial
2 on shooting at the New Hampshire police officer; did
3 you?

4 MR. AUSTIN: Yes, I did, sir.

5 THE COURT: Did he, Mr. Feith?

6 MR. FEITH: Your Honor, it's my
7 understanding, both from Massachusetts and from the
8 probation report, that the offenses to which he was
9 found guilty in Massachusetts concerned the
10 Massachusetts police officers. They did not include
11 Deputy Chief David Currier. He was charged in an
12 indictment with Mr. Currier down there, but the
13 convictions came from the Massachusetts police
14 officer, and that's why the government requested that
15 on this particular paragraph the Court find it be
16 based on the shooting on Seabrook Deputy Chief David
17 Currier.

18 MR. AUSTIN: Sir, at trial in Massachusetts
19 I was charged with all counts -- all seven counts of
20 armed assault with the attempted murder on the police
21 officers. I was found not guilty of all seven of them
22 counts.

23 THE COURT: Well, again, you really don't
24 know what you're doing, and I can't give you a course
25 in the Sentencing Guideline during this one hour or

1 so.

2 MR. AUSTIN: I know this.

3 THE COURT: But here's the problem. It's a
4 different standard of proof, a different burden of
5 proof. Meaning you weren't found innocent, in other
6 words. You were not convicted. In other words, the
7 government did not prove those charges beyond a
8 reasonable doubt in Massachusetts, the ones for which
9 you were acquitted. That is not the same thing as
10 saying you didn't do it. All that says is that the
11 government didn't prove it beyond a reasonable doubt.

12 MR. AUSTIN: That's right.

13 THE COURT: So there's no binding effect, if
14 you will, on an acquittal. You don't get to come in
15 here and say I was acquitted in Massachusetts,
16 therefore, I didn't do it.

17 MR. AUSTIN: No, I understand.

18 THE COURT: The burden of proof here is by a
19 preponderance, so -- in other words, is it more likely
20 than not that you engaged in this conduct? So what
21 Mr. Feith is suggesting is, is it more likely than not
22 that you engaged in shooting at a New Hampshire police
23 officer in connection with your flight from the bank
24 robbery? The answer to that question is yes. If it's
25 more likely than not that you did that, then you get

1 the enhancement. And it really doesn't matter that
2 you were acquitted in Massachusetts.

3 MR. AUSTIN: So 23 and 25 on page six are
4 not in the same conduct? Because that's my argument.

5 THE COURT: Well, all right. 23 is an
6 appropriate adjustment based upon the fact that you
7 were shooting at Officer Currier, knowing he was a
8 police officer -- certainly having reason to know he
9 was a police officer since he was chasing you, and you
10 turned around and shot at him.

11 MR. AUSTIN: But the official victim point
12 of that would be that -- my argument to that would be
13 that he's not an official victim. He's only acting
14 under his duties as a law enforcement officer.

15 THE COURT: That's totally a meritless
16 argument because official victim, as the term applies
17 to you, is found in 3A1.2(e), and that doesn't require
18 any sort of official conduct. It just requires that
19 he be a police officer, that you know he was a police
20 officer, and that during the course of your immediate
21 flight from the offense, the bank robbery, you shot at
22 him or assaulted him. That's all it requires. And
23 you did all that, so you get the enhancement.

24 Now, what's your next argument related to
25 25?

1 MR. AUSTIN: 25 is the same conduct that
2 goes to 23. It goes back to the police officer's
3 unit. It's the same course of conduct.

4 THE COURT: Yes, that's probably true, but
5 there are different qualities involved in your conduct
6 that are being punished. There are different actions
7 and the different qualitative nature of the actions
8 that are being punished. That's why you get these
9 enhancements. So what you really have to do is turn
10 to 3C1.1 or 1.2.

11 MR. FEITH: Your Honor, just for purposes of
12 clarity, the government bases that particular
13 enhancement on the testimony from Deputy Chief Currier
14 that the chase exceeded speeds of 80 to a hundred
15 miles an hour between Seabrook, New Hampshire, and the
16 end point of Deputy Currier's chase in Massachusetts.
17 Those speeds and that recklessness and driving that
18 fast, not only on Interstate 95 but on some state
19 roads, 107 in Seabrook I believe was the testimony, as
20 well as I think it was Route 10 in Massachusetts --
21 110 in Massachusetts. That's what the government asks
22 that that enhancement be based on.

23 THE COURT: Do you understand that?

24 MR. AUSTIN: I wasn't charged with any kind
25 of driving offense whatsoever. In that conduct on

1 that day, there was no driving offense.

2 THE COURT: That doesn't mean you didn't
3 violate the driving rules of the road, that doesn't
4 mean you didn't act recklessly, and it doesn't mean
5 you didn't endanger somebody.

6 MR. AUSTIN: Yeah, but did I get charged
7 with it?

8 THE COURT: Well, at some point they
9 probably decided that there were diminishing returns
10 in charging you with every conceivable offense you
11 committed. They don't have to charge you with every
12 conceivable offense that you committed in order for
13 the Sentencing Guidelines to take into account your
14 conduct.

15 So the real question is, were you fleeing an
16 officer? In the course of fleeing an officer, did you
17 recklessly create a substantial risk of death or
18 serious bodily injury?

19 MR. AUSTIN: And that's what I got the
20 three-point enhancement on 23 for.

21 THE COURT: No, you got that for shooting at
22 a police officer. You're getting the 25 paragraph
23 enhancement for the reckless conduct that seriously
24 endangered people when you were driving like a maniac
25 down the road to Massachusetts.

1 MR. AUSTIN: So you're saying that you don't
2 need no proof of anything. I could have been doing 20
3 miles under the speed limit and it wouldn't matter
4 because --

5 THE COURT: No, you need proof, but the
6 proof was provided by the testimony at the trial by
7 the officers, which I credit. So I find by a
8 preponderance of the evidence more likely than not
9 that you in fact were driving in a reckless and
10 endangering way, putting at substantial risk of death
11 or serious bodily injury many other people, all those
12 who happened to be unfortunate enough to be in your
13 path.

14 MR. AUSTIN: Then how come it says law
15 enforcement officers on 25?

16 THE COURT: Because that's assaulting them.

17 MR. AUSTIN: Because that's what's referring
18 to them.

19 THE COURT: No. You were fleeing from
20 them. That's what you were doing. Is there some
21 doubt that you were fleeing from the officers that
22 were chasing you?

23 (MR. AUSTIN: There's no doubt.)

24 THE COURT: So in the act of fleeing from
25 the officers -- that's just the act of fleeing from

1 them -- you engaged in reckless conduct which
2 substantially endangered the lives or health and
3 safety of others by your driving. So you get two for
4 that.

5 MR. AUSTIN: So 23 and 25 are not the same.

6 THE COURT: No, they're not.

7 MR. AUSTIN: They're different?

8 THE COURT: They're quite different.

9 MR. AUSTIN: And the no official victims,
10 you're saying to me that the police officers are
11 definitely official victims, no matter what.

12 THE COURT: No, not no matter what. They're
13 official victims within the meaning of the guidelines
14 if the conduct qualifies under Section 3A1.1(b) -- or
15 3A, I'm sorry, 1.2(b). 3A1.2(b). And they do.

16 MR. AUSTIN: So there's no double counting
17 on them?

18 THE COURT: No.

19 MR. AUSTIN: All right. I'll take a seat.

20 THE COURT: Mr. Lange, are there any other
21 objections you'd like to raise?

22 MR. LANGE: I don't know if this is an
23 objection, but I submitted a sentencing memorandum on
24 the concurrent consecutive question. I cited case
25 law.

1 THE COURT: I wasn't really sure where that
2 was going actually.

3 MR. LANGE: The government is asking that
4 the sentences on counts other than Count 2, which I
5 concede has to be consecutive to all pending
6 sentences, that the defendant doesn't --

7 THE COURT: Well, that's what fooled me. I
8 was being beguiled there a little bit. You don't
9 win. All you can do is take it out of mandatory and
10 put it into discretionary; right?

11 MR. LANGE: No, your Honor. I think that
12 under 5G1.3(c) -- I'm sorry, (b), is a guideline that
13 the Court is obliged to follow. 5G1.3(c) is a policy
14 statement which provides guidance which the Court must
15 consider, which gives the Court considerable
16 discretion and which does not channel or cabin that
17 discretion.

18 My argument is that Guideline Section
19 5G1.3(b) does apply to all of the counts other than
20 Count 2, which is to say Count 1, 3, 4 and 5, and
21 whatever sentence you impose today on those counts has
22 to be concurrent.

23 THE COURT: No. No. I think maybe you
24 misspoke. You're saying 5G1.3(a) does not apply;
25 right?

1 MR. LANGE: I am. That's correct, your
2 Honor.

3 THE COURT: Does not apply?

4 MR. LANGE: Right; because the defendant was
5 on, as I understand it, parole or probation, but that
6 does not constitute serving a term of imprisonment
7 under the case law or the specific language of
8 Guideline Section 5G1.3(a).

9 THE COURT: All right. So then you say (b)
10 applies, and then the next step has to be that the
11 undischarged term of imprisonment -- which would be
12 Massachusetts; right?

13 MR. LANGE: Right.

14 THE COURT: -- have been fully taken into
15 account in determining the offense level for the
16 instant offense.

17 MR. LANGE: That's right.

18 THE COURT: But they haven't been taken into
19 account at all in determining the instant offense;
20 have they?

21 MR. LANGE: They have, your Honor. They've
22 been taken into account as relevant conduct, a single
23 course of conduct. The cases that I cite in my memo,
24 the First Circuit cases and the -- I'm sorry, the
25 First Circuit case, and more importantly the Eleventh

1 Circuit case, Blanc, all indicate that that phrase
2 "fully taken into account" incorporates relevant
3 conduct as defined under 1B1.3.

4 The defendant engaged in a single course of
5 conduct in a time frame here on February 11th. He
6 stole a car here in Concord, apparently stole a gun in
7 Dover -- or at least used a car that was stolen in
8 Concord and used a gun that was stolen in Dover. He
9 robbed a bank in Portsmouth, used the same vehicle to
10 flee from Portsmouth through Hampton, where he had his
11 encounter with -- I don't remember his name -- when he
12 called him at trial, an off-duty trooper, Peter
13 Hilchey.

14 He then fled through Seabrook, where he was
15 pursued by Officer Currier down into Massachusetts,
16 where he was further pursued by officers from
17 Portsmouth, New Ipswich, Beverly, Salem, ultimately
18 crashes the car on Prospect Street in Salem, breaks
19 into the slider at 9 Pope Street, goes into the Hardy
20 home where he's ultimately apprehended. So it's a
21 single course of conduct.

22 THE COURT: It may well be. But it's not
23 fully taken into account. Are there any cases that
24 talk about that means?

25 MR. LANGE: Yes.

1 THE COURT: "Fully taken into account"?

2 MR. LANGE: Yes, there are, your Honor, and
3 I cite them at pages three and four of my motion.

4 THE COURT: But those don't -- "fully take
5 into account" means this guideline sentence was
6 calculated based upon the counts of conviction, the
7 prior counts of conviction. Isn't that what it
8 means? Why is the government wrong? The government
9 suggested, yes, there are a couple of enhancements
10 here that probably were a factor in the Massachusetts
11 sentence, but that's about it.

12 MR. LANGE: Your Honor, the government's
13 wrong on two grounds. The government's wrong simply
14 in its categorization of what the superior court judge
15 did in Salem. She did, and it's clear from the
16 transcript, consider the defendant's conduct. And you
17 can see it at page five of the portion of the November
18 4th, 1998, transcript that's appended to the
19 government's sentencing memoranda.

20 And you can see there that Judge Merrick
21 considered the defendant's conduct just as any judge
22 would and just as you're obliged to as a federal judge
23 under the guidelines, the conduct as a whole, looking
24 to the complete course of conduct. It's already
25 indicated that conduct began in New Hampshire,

1 included the offenses the defendant's been convicted
2 of here, and ended in Massachusetts, including the
3 offenses he's already been convicted of and sentenced
4 for down there.

5 THE COURT: Well, she specifically just
6 said, as I read it -- she specifically just said, I'm
7 naturally taking into account the victims; that is,
8 the high-speed chase victims and the Hardy children.
9 But that would just --

10 MR. LANGE: That's not what she does, your
11 Honor. You can see in the first full paragraph on
12 paragraph five, she says that at one point during the
13 day of this incident, you sat down somewhere and, very
14 calmly and calculating, took a nine-millimeter weapon
15 with you.

16 So she begins, just as this Court would,
17 with the beginning of the criminal episode, which was
18 the theft of the gun or the use of the gun, the stolen
19 gun, which was up here in New Hampshire. But she
20 considered the course of conduct.

21 THE COURT: She's not ignoring what
22 happened, but she's not sentencing on that basis.

23 MR. LANGE: I don't think she has to, your
24 Honor. I think that under the Blanc case, relevant
25 conduct, conduct which is relevant conduct is conduct

1 that falls within the definition of, quote, fully
2 taken into account, unquote, in Guideline Section
3 5G1.3(b).

4 And as the Court -- as the Eleventh Circuit
5 said there, it doesn't matter whether the district
6 court or the prior court actually considered the
7 activity when it calculated the base level. The
8 concept here is relevant conduct.

9 THE COURT: But that's different. It's
10 different when you're talking about two federal courts
11 and two different applications of the guidelines,
12 isn't it, than when you're talking about what a state
13 sentencing judge, which has much more latitude than I
14 have in terms of sentencing, there's no -- there's no
15 precise way to say what was taken into account. But
16 she certainly didn't sentence him for the bank
17 robbery, and you're suggesting to me I can't sentence
18 him consecutively for the bank robbery because she
19 thought about what he'd done that day. That's clearly
20 wrong.

21 MR. LANGE: No, your Honor. I think that
22 you can't -- you can certainly --

23 THE COURT: Can I sentence him consecutively
24 for the bank robbery?

25 MR. LANGE: No, your Honor. No.

1 THE COURT: Okay. Well, that's clearly
2 wrong; isn't it?

3 MR. LANGE: No, your Honor, I disagree.

4 THE COURT: Well, we disagree then.

5 Anything else you'd like to say?

6 MR. LANGE: No.

7 THE COURT: All right. Mr. Feith?

8 MR. FEITH: Your Honor, the government has
9 nothing more to add than what's in its sentencing
10 memo. If the Court has any questions, the Court's
11 already noted that the cases cited by the defendant
12 involved federal crimes.

13 THE COURT: Yeah, I do have one question.
14 Why is it just the four points? I mean I suppose an
15 argument even under your theory could be made that --
16 your view is the vulnerable victim enhancement should
17 go out?

18 MR. FEITH: And the physical restraint as
19 well.

20 THE COURT: And what paragraph's that?

21 MR. FEITH: Those are paragraphs --
22 vulnerable victim is 22, your Honor, and the physical
23 restraint is paragraph 20. That's where I think that
24 clearly involves conduct that was contemplated by the
25 Massachusetts court.

1 THE COURT: Why wouldn't the fleeing from
2 the officers have been contemplated?

3 MR. FEITH: That is --

4 THE COURT: And why wouldn't the assault on
5 the officers have been contemplated? I mean assuming
6 that's the right theory. I'm not even sure. You
7 might even be giving up too much there, but assuming
8 that your view is right.

9 MR. FEITH: I might be giving them too much,
10 your Honor, but --

11 THE COURT: But under your theory, accepting
12 your theory, why wouldn't these qualify as well?

13 MR. FEITH: The government's position on
14 that, your Honor, is because we're asking the Court to
15 base those solely on the New Hampshire officer, not on
16 any of the Massachusetts officers. I'm asking the
17 Court to make a finding that those enhancements are
18 warranted based solely on the testimony of Deputy
19 Chief Currier. And admittedly, the transcript I
20 provided the Court of the sentencing from
21 Massachusetts is less clear on that particular point
22 than it is on the not taking into account the robbery
23 point.

24 But the fact that he was convicted in
25 Massachusetts of the pursuit charges, if you will,

1 that relate solely to the Massachusetts officers, in a
2 sense I'm asking the Court to find that that conduct
3 is warranted solely on the New Hampshire officer and
4 is distinct from what was --

5 THE COURT: That's fine. I'm happy to do
6 that. I've done that. That gives him the
7 enhancement. That's done and over.

8 MR. FEITH: Yes.

9 THE COURT: Now the question is, did she
10 consider that and -- if I accept your theory, did she
11 consider that in imposing sentence in Massachusetts?
12 Mr. Lange suggests, well, yes, she did because she
13 certainly considered it a continuing course of conduct
14 pretty much. She certainly didn't sentence him for
15 the bank robbery. She makes that explicit. That's
16 explicitly clear that she did not do that.

17 MR. FEITH: That's true, your Honor, and all
18 I have is the transcript that I provided the Court.
19 And to the extent that the judge's comments -- Judge
20 Merrick's comments are that she considered the
21 high-speed chase, she doesn't explicitly say the
22 high-speed chase relating to the Massachusetts
23 officers.

24 And further down on page six, she qualifies
25 the police officers as a generic group as part of the

1 victims. Certainly since Mr. Currier was the subject
2 of an indictment down there, it could be argued that
3 she contemplated that at her sentencing.

4 And I guess our only argument with that is,
5 in light of the acquittal on his charge as opposed to
6 the Massachusetts charges, we ask that you find that
7 the transcript does not clearly state that she has
8 contemplated Deputy Chief Currier's role.

9 (Pause.)

10 THE COURT: Mr. Linehan, I'm having a lot of
11 trouble with this section. If (a) does not apply --
12 5G1.3.

13 MR. LINEHAN: Right, your Honor.

14 THE COURT: And (a) does not apply. The
15 undischarged term of imprisonment, which is the
16 Massachusetts sentence, resulted from offenses that
17 have been fully taken into account in determination of
18 the offense level for the instant offense. It doesn't
19 seem to me that they've been fully taken into account
20 in determining the offense level for this offense.
21 But certainly conduct engaged in was taken into
22 account. In other words, none of the offenses of
23 conviction in Massachusetts really form a basis for
24 the guideline determination here, do they, or do
25 they?

1 MR. LINEHAN: Well, particularly as it
2 applies to what happened in the home down there, it
3 does, your Honor.

4 THE COURT: The vulnerable victims.

5 MR. LINEHAN: Vulnerable victims, the
6 restraint of the victims. Since a portion of the
7 reckless conduct occurred in both states, and in both
8 states an official victim was involved, I didn't feel
9 that that was taken into consideration fully under the
10 guidelines.

11 THE COURT: What were the convictions in
12 Massachusetts?

13 MR. FEITH: Three counts of armed home
14 invasion, your Honor. Those form the basis for the 30
15 to 40 sentence. Three counts of kidnapping.

16 THE COURT: Is there anything about the
17 police officers, the assault on the police officers?
18 Convictions I mean.

19 MR. LINEHAN: Yes, your Honor.

20 MR. FEITH: Yes, your Honor. And they're
21 listed, just for the record purposes, at paragraph 63
22 and 64 of the presentence report on pages 14 and 15.
23 Those are the assault with a dangerous weapon and the
24 armed assault with intent to murder. Three counts on
25 the paragraph 63, the armed assault with intent to

1 murder, and two counts of assault with a dangerous
2 weapon. And just for the record again, I note that
3 the report says the victims were Massachusetts police
4 officers.

5 THE COURT: All right. So the reckless
6 endangerment as a result of the flight was not the
7 basis of an offense in Massachusetts of conviction.

8 MR. FEITH: That's correct.

9 THE COURT: And was not, as far as we know,
10 taken into account in arriving at the Massachusetts
11 sentence.

12 MR. FEITH: That's correct.

13 THE COURT: And your point would be -- and
14 the shooting assault with respect to the New Hampshire
15 police officers was also a separate offense separately
16 indictable that was not an offense of conviction in
17 Massachusetts and was not taken into account in
18 determining the Massachusetts sentence. It's not an
19 offense taken into account.

20 MR. FEITH: Certainly that would be the
21 government's position.

22 THE COURT: All right. Mr. Lange, your
23 objection's overruled in part and sustained in part.
24 I agree with the government that -- I'm not sure
25 that's probably required, but certainly giving you the

1 benefit of the doubt, Mr. Lange, I think the
2 enhancement for vulnerable victim as set forth in
3 paragraph 20 should not be taken into account under
4 5G1.3(b), and the paragraph 20 enhancement under
5 2B3.1(e)(4)(B) should not be taken into account under
6 5G1.3(b). And to that extent, your objection's
7 sustained.

8 All right. Any other objections, Mr.
9 Lange?

10 MR. LANGE: Yes, one other, your Honor. I'd
11 argue that the use of the loss on the Jetta should not
12 be double counted. It was used both to enhance the
13 offense level under robbery, the robbery count, Count
14 1, and to enhance the loss level on Count 4,
15 interstate transportation of stolen property.

16 The bank robbery involved the taking of
17 money in the amount of \$9,000 something -- \$9,028.
18 The defendant should not be given the extra level due
19 to a loss greater than 10,000 because of the \$2,000
20 loss on the vehicle. I don't dispute the \$2,000
21 figure. I just dispute using the vehicle to enhance
22 the offense level on Count 1. I don't dispute the use
23 of it to enhance the offense level in Count 4.

24 THE COURT: Mr. Feith?

25 MR. FEITH: Your Honor, the government's

1 position is that the probation officer correctly
2 calculated it and included it under paragraph 39. As
3 I understand, and I think which is the correct
4 application, the value of the vehicle was considered
5 as one of the enhancements under Count 5. And then
6 after all the counts were calculated and the grouping
7 rules were applied, it was determined that Count 5
8 should be grouped with Count 1. And under the
9 grouping rules, then the value of the car is brought
10 in.

11 Instead, because they're grouped offenses --
12 if they had not been grouped offenses, you'd go to
13 whether you assign units. But the probation officer
14 correctly calculated that these are grouped offenses,
15 so it's like grouped offenses in any multi-count
16 indictment that involved losses in the individual
17 counts. You calculate the individual count first, but
18 if they are grouped, then you do, you know,
19 essentially one calculation on the grouping laws,
20 which is what was done here.

21 MR. AUSTIN: Your Honor --

22 THE COURT: Well, don't confuse me yet, Mr.
23 Austin.

24 Mr. Lange, that strikes me as correct. It
25 wasn't -- the car value wasn't added on to the robbery

1 loss calculation and then considered in Count 4
2 separately and then grouped; right?

3 MR. LANGE: Yes, actually it was.

4 THE COURT: It was? Is that what happened?

5 MR. LANGE: Maybe I'm wrong, but that's what
6 I thought the report indicated.

7 MR. LINEHAN: If you did each singularly.

8 In that case the value of the car appears in Count 1
9 and whatever other count it was, 4 or 5. However, as
10 far as calculating the guidelines, the value of that
11 car was only counted once and it was grouped in with
12 Count 1 with the total loss, your Honor.

13 THE COURT: Okay.

14 MR. LINEHAN: So in the total offense
15 level --

16 THE COURT: I agree it would be incorrect to
17 group it with the robbery if the robbery were being
18 calculated separately; right?

19 MR. LINEHAN: Right, your Honor. And it was
20 done, you'll see where each count was -- the
21 calculations were done for each count, but then the
22 determination was made not to use any of the
23 calculations that were in Count 4 or 5, but to just
24 add that value of the vehicle into the robbery action.

25 THE COURT: Just so I'm straight, if we were

1 just doing the bank robbery and the theft of the car,
2 we would not attribute to the bank robbery any loss
3 occasioned by the theft of the car? We would not do
4 that?

5 MR. LINEHAN: If the car was unrelated to
6 the robbery?

7 THE COURT: Well, yeah. It's unrelated to
8 the robbery. It's not part of the robbery.

9 MR. LINEHAN: You're saying if the car was
10 unrelated to the robbery, I wouldn't put them
11 together. But the car was part and parcel of the
12 conduct.

13 THE COURT: Well, that's for grouping.

14 MR. LINEHAN: That's why I put it in with
15 the loss.

16 THE COURT: I know. Grouped, it was counted
17 as a loss, and the total loss after grouping was the
18 bank robbery proceeds and the value of the car.

19 MR. LINEHAN: Correct, your Honor.

20 THE COURT: It's not bank robbery plus car,
21 plus car?

22 MR. LINEHAN: No, your Honor.

23 THE COURT: All right. That objection is
24 overruled, Mr. Lange.

25 MR. LANGE: Your Honor, I want to put an

1 alternative proposition before you. It appears -- I
2 certainly don't know for certain, but it appears that
3 the Court is going to impose a robbery sentence
4 consecutive to the Massachusetts sentences because the
5 Court's rejected my reading of 5G1.3(b). I accept
6 that, and I'm not going to try to get the Court to
7 change its mind.

8 THE COURT: I probably will, but I haven't
9 gotten to that point yet. But I have rejected your
10 argument that a concurrent sentence is required by the
11 guideline.

12 MR. LANGE: If the Court does impose the
13 robbery sentence consecutive, the Court should not
14 include the car enhancement. Because use of that
15 automobile, use of that Jetta, was certainly very much
16 part of what Judge Merrick had to have considered. It
17 was a big part of the Massachusetts trial, I'm sure.
18 This was an important part of this trial, that the
19 defendant crashed the Jetta in Salem, that he fled the
20 officers, that he was ultimately convicted of lesser
21 included offenses of assaults in that Jetta. I want
22 the Court to understand I'm making this additional
23 point as well.

24 THE COURT: All right. Thank you. That
25 objection is overruled as well.

1 All right. Mr. Austin, you had something
2 else you wanted to say?

3 MR. AUSTIN: No, sir.

4 THE COURT: All right. Does the government
5 have any objections to the presentence investigation
6 report?

7 MR. FEITH: None, your Honor.

8 THE COURT: All right. There being no
9 further objections, the Court hereby adopts the
10 findings and recommendations set forth in the
11 presentence investigation report, with the exceptions
12 on the record given the rulings that I've made with
13 regard to discounting the enhancements for vulnerable
14 victim and restraint.

15 Accordingly, I hereby find that the total
16 offense level applicable in this case under the
17 Sentencing Guidelines is level 28, and the criminal
18 history category is a criminal history category six.

19 All right. Mr. Lange, would you like to be
20 heard on sentencing?

21 MR. LANGE: Your Honor, I would urge the
22 Court to exercise its discretion under 5G1.3(c),
23 impose a sentence at the low end of the applicable
24 guideline, concurrent with the sentences imposed back
25 on November 4th of last year by Judge Merrick, except

1 that the sentence on Count 2, the five-year mandatory
2 sentence, would have to be consecutive. But I'd urge
3 the Court to impose a concurrent sentence. The
4 defendant will be a very old man before he finishes
5 the first set of sentences here in the Massachusetts
6 case and before he finishes whatever sentence you're
7 about to impose here, and then he starts the five
8 years that he has to serve in full. I think it's
9 common experience that with age, defendants become
10 less likely to reoffend, particularly in the
11 spectacular way in which this defendant has conducted
12 himself to date.

13 THE COURT: Mr. Feith?

14 MR. FEITH: Your Honor, the government asks
15 for a sentence of 175 months on Counts 1 through 4 and
16 5, to be fully consecutive to his sentence in the
17 Massachusetts case. That would be Massachusetts,
18 Essex County Superior Court, Docket 98-770403.

19 Your Honor, this was an extremely violent
20 episode, consistent with this defendant's history of
21 assaultive behavior, as set forth in the detailed
22 report by the probation officer of this defendant's
23 criminal history. And by operation of statute, we ask
24 that Count 2, the 60-month sentence, be consecutive to
25 the sentence the Court imposes on Counts 1, 3, 4, and

1 5.

2 THE COURT: All right. I've had a little
3 trouble following your recommendation in your
4 memorandum.

5 MR. FEITH: In light of the Court's ruling
6 of a total offense level 28 and criminal history
7 category 6, the calculations set forth in the
8 government's memorandum don't even follow. You can
9 just make it fully consecutive, if that's the Court's
10 desire, because you've already counted --

11 THE COURT: Accounted for it because
12 we've --

13 MR. FEITH: Yes.

14 THE COURT: So the argument would be there
15 is no portion of the guideline sentence that would
16 overlap with the state sentence because the
17 enhancements that otherwise would relate have been
18 nullified.

19 MR. FEITH: That's correct. If the Court
20 then determined that a total offense level of 32 is
21 appropriate, then the government's calculations would
22 come into play. But in light of the Court's rulings,
23 they don't come into play.

24 THE COURT: All right. Mr. Austin, you have
25 a right of allocution, which means you have the right

1 to address the Court before sentence is imposed.

2 You're not required to exercise that right, but if
3 you'd care to, I'd be happy to hear from you now.

4 MR. AUSTIN: Okay. First of all, I'd like
5 to start with I've done a lot of things in my life
6 that I'm not happy with, but the bottom line of all
7 this is that during my course of actions on February
8 11th, 1998, no one got hurt. No one got killed. No
9 one got seriously maimed. No one's in a wheelchair
10 over it. And if you give me a sentence of on and
11 after a 30- or 40-year sentence, you're giving me a
12 death sentence. That's just the way that that is.

13 Nobody got hurt. I understand that there
14 was conduct on that day that was not very good, but 40
15 years is 40 years. The thought of on and after, I
16 feel that you're not only sending the message to me
17 personally, you're sending a message to everybody out
18 there that if they ever get put in a situation like
19 that, then you're at the end of the road.

20 Because in that situation that I was in that
21 day, I felt I did the best thing. I came out of
22 there. No one came out of that situation hurt. But
23 what message will that send to somebody that will be
24 put in that situation further down the road if they
25 see my case and they say, geez, look at that? That's

1 history. You're history. You might as well just go
2 for broke right there. I mean that's what you're
3 saying.

4 Basically what I get from this, I look at
5 the news and I look at the media and I see people kill
6 people and get twelve years. People kill people and
7 get fifteen years to life.

8 And nobody got hurt in my situation but me.
9 I got shot. I got taken out of this home. I got a
10 30-to 40-year sentence, and now I'm looking at another
11 27 years.

12 I'd just ask that you take a good look into
13 that and find some kind of reasoning in that, that no
14 one got hurt. I mean because the bottom line of it is
15 nobody did get hurt. Obviously people got hurt in the
16 sense of their feelings and the way that things
17 happened that day, but physically nobody got hurt.
18 I'm the only one that got shot. Nobody else died.

19 And if people could get fifteen to life for
20 murder, then the message that you're sending is rape
21 my wife, rape my kids, just don't steal my money.
22 Kill my brother, but just don't steal my money.

23 That's basically what this is coming down
24 to. I stand here by myself today, but there's a lot
25 of people looking at my case to see what happens with

1 this. And the message that I'm asking is that you
2 don't send a message out there, if you do get in a
3 situation like that, you might as well just go for
4 broke right there. And I'm asking you to take into
5 consideration the fact that nobody was hurt.

6 And I have remorse for what has happened. I
7 feel for the Hardy family, and I truly do have
8 remorse. But you're putting me in a situation where
9 -- you're telling me right now, with what you've just
10 gone over in your guideline calculations, that I'm
11 looking at forever in prison for not hurting anybody.
12 And I just feel that that's a totally wrong message
13 that you want to send to the public.

14 But if that's the message that you want to
15 send, then that's just the way that goes, and I'll
16 hold my head high for whatever sentence you have to
17 impose. That's it.

18 THE COURT: All right. Thank you, Mr.
19 Austin.

20 Mr. Lange, I think I gave you an opportunity
21 to argue; didn't I? Did I give you an opportunity to
22 argue on sentence?

23 MR. LANGE: You did, your Honor.

24 (Pause.)

25 THE COURT: All right. My math indicates

1 that the maximum under the Sentencing Guidelines is
2 175, 175 months for all but Count 2, and Count 2
3 requires a 60-month consecutive by statute; is that
4 correct? So that's 235 months.

5 MR. FEITH: That's correct, your Honor.

6 THE COURT: And the sentence in
7 Massachusetts is what, 30 years?

8 MR. FEITH: It is 30 to 40, your Honor.

9 THE COURT: What does that mean, realistic
10 as a practical matter?

11 MR. FEITH: Well, we called the records
12 people at Walpole, and I set forth the dates in the
13 memo, your Honor. They have calculated three dates.
14 His maximum release date is February 10th, 2038. What
15 they characterize as a minimum release date is
16 February 10th, 2028. But his good conduct discharge
17 date is -- I believe it's September 2021. That's the
18 date they gave us, your Honor.

19 MR. AUSTIN: Your Honor, it's a mandatory
20 30- to 40-year sentence.

21 THE COURT: Well, in Massachusetts that
22 doesn't always mean you serve it.

23 MR. FEITH: September 9th, 2021, is what the
24 records custodian at Walpole gave.

25 THE COURT: 2021 best case earliest release

1 date if everything goes right.

2 MR. FEITH: That's what they call their good
3 conduct discharge date, that's right, if everything
4 goes perfect.

5 MR. AUSTIN: Your Honor --

6 THE COURT: Yes.

7 MR. AUSTIN: Under Truth and Sentencing in
8 Massachusetts, there is no good time conduct on a 30-
9 to 40-year sentence. Your minimum is 30 years. Your
10 maximum is 40 years. You have to serve the 30 years
11 before you become eligible for parole. On my 30 to
12 40-year sentence, I got 30 to 40 years, which means my
13 minimum is in 30 years. My maximum is in 40. So if
14 you give me a sentence of 25 years or 24 years
15 consecutive to 30 years, that's a death sentence.

16 (Pause.)

17 MR. LANGE: Your Honor, before you impose
18 sentence, there's one other thing I'd like to say.

19 THE COURT: All right.

20 MR. LANGE: The defendant requests, if he
21 falls within the BOP criteria, and I don't know what
22 they are, that he be permitted an additional
23 recommendation to be incarcerated, if he's not going
24 to stay in Massachusetts correctional custody, that he
25 be held at Ft. Devens, at least long enough to be able

1 to consult with his attorney, who is David Nathanson
2 (ph.) who is doing the appeal for him in the Supreme
3 Judicial Court in Massachusetts.

4 He's also requested that I file a notice of
5 appeal, which I will do, and he wants me off the
6 case. I will file an appropriate pleading requesting
7 that David Bownes, or some other attorney who is
8 willing to represent Mr. Austin, represent him on
9 appeal.

10 THE COURT: That doesn't require any action
11 on my part; does it?

12 MR. LANGE: It doesn't, your Honor, but the
13 defendant is very anxious that he make it clear to the
14 world he does not want me as counsel. And with regard
15 to the recommendation, of course, you're empowered to
16 make a recommendation. Bureau of Prisons doesn't have
17 to follow it.

18 THE COURT: All right. I don't think I need
19 to do anything with regard to Mr. Austin's relieving
20 you. And as to the recommendation, I leave that to
21 the Bureau of Prisons to determine where the defendant
22 should be incarcerated.

23 Was there another request? That was it?

24 MR. LANGE: Yes.

25 THE COURT: I don't think I have anything to

1 say about whether you handle the appeal or not, Mr.
2 Lange.

3 Yes, Mr. Austin?

4 MR. AUSTIN: One more thing. I just want to
5 put on the record that I would like to get my
6 transcripts for my side bars, my openings, my closings
7 all through my whole trial. Any kind of transcript
8 I'd like to get. I just want to put that on the
9 record.

10 MR. LANGE: I'll do that. He doesn't
11 believe me, but I will in fact get that.

12 THE COURT: All right. If you don't get it,
13 just file a motion, Mr. Austin.

14 MR. AUSTIN: Okay.

15 THE COURT: All right. I'll announce the
16 sentence I intend to impose, but I won't actually
17 impose it until I've given both parties an opportunity
18 to raise any additional legal or factual issues they'd
19 care to raise with regard to the sentence.

20 The Court intends to impose sentence as
21 follows: Pursuant to the Sentencing Reform Act of
22 1984, it is the judgment of this Court that the
23 defendant, Chad E. Austin, is hereby committed to the
24 custody of the Bureau of Prisons to be imprisoned for
25 a term of 175 months on Count 1, 60 months to be

1 crime, shall comply with the standard conditions that
2 have been adopted by this Court, and shall comply with
3 the following additional conditions: The defendant
4 shall not illegally possess any controlled substance.
5 The defendant shall not possess a firearm as defined
6 in 18 U.S. Code, Section 921. Defendant shall refrain
7 from any unlawful use of a controlled substance. The
8 defendant shall submit to one drug test within fifteen
9 days of release from imprisonment and at least two
10 periodic drug tests thereafter as directed by the
11 probation officer. The defendant shall pay any
12 financial penalties that is imposed by this judgment
13 and that remains unpaid at the commencement of the
14 term of supervised release.

15 In addition, the defendant shall comply with
16 the following special conditions: The defendant shall
17 provide the probation officer with access to any
18 requested financial information. The defendant shall
19 not incur new credit charges or open additional lines
20 of credit without the approval of the probation
21 officer unless he is in compliance with the
22 installment payment schedule.

23 The defendant shall participate in a program
24 approved by the United States Probation Office for the
25 treatment of narcotic addiction or drug or alcohol

1 dependency, which will include testing for the
2 detection of substance use or abuse.

3 The defendant shall also abstain from the
4 use of alcoholic beverages and/or all other
5 intoxicants during and after the course of treatment.

6 The defendant shall pay for the cost of treatment to
7 the extent he is able as determined by the probation
8 officer.

9 The defendant shall participate in a program
10 of mental health treatment as directed by the
11 probation officer until such time as the defendant is
12 released by the program by the probation officer. The
13 defendant shall pay for the cost of treatment to the
14 extent he is able as determined by the probation
15 officer.

16 Defendant shall submit his person,
17 residence, office, or vehicle to a search conducted by
18 a U.S. probation officer at a reasonable time and in a
19 reasonable manner based upon reasonable suspicion that
20 contraband or evidence of a violation of a condition
21 of release may exist. Failure to submit to a search
22 may be grounds for revocation. The defendant shall
23 warn any other residents that the premises may be
24 subject to searches pursuant to this condition.

25 The defendant shall not possess or have

1 under his control any dangerous weapons.

2 It is further ordered that this defendant
3 shall pay to the United States a special assessment of
4 \$500. It is further ordered that the defendant shall
5 make restitution to the insurance carrier, the AMICA
6 Company. Is that AMICA, Mr. Linehan?

7 MR. LINEHAN: AMICA, yes, your Honor.

8 THE COURT: Because the balance looks a
9 little different.

10 MR. LINEHAN: I believe 4,650 is what they
11 ultimately disbursed, some of it to the loan company,
12 some of it to the owner of the vehicle. It's a little
13 confusing the way it's presented.

14 THE COURT: No, I see it, with the
15 deductible, all right, and the balance paid.

16 All right. It is further ordered that the
17 defendant make restitution to the AMICA Insurance
18 Company in the amount of not more than \$2,000. The
19 Court finds that the defendant does not have the
20 ability to pay a fine in addition to the restitution
21 ordered in the case. The Court will waive imposition
22 of a fine in this case.

23 The payment of total criminal monetary
24 penalties shall be due as follows: \$500 immediately,
25 balance due in installments to commence 30 days after

1 the date of this judgment. In the event the entire
2 amount of criminal monetary penalties imposed is not
3 paid prior to the commencement of supervision, the
4 U.S. probation officer shall pursue collection of the
5 amount due and shall request the Court to establish a
6 payment schedule, if appropriate.

7 The defendant shall be remanded to the
8 custody of the United States Marshal. It's the
9 Court's intent to impose a sentence that will
10 effectively require the defendant to serve an
11 additional ten years of imprisonment consecutive to
12 the term imposed by Massachusetts, which is a 30-year
13 to 40-year sentence.

14 Would either counsel like to -- or, Mr.
15 Austin, would you like to raise any objections to the
16 sentence as the Court intends to impose it? Mr.
17 Lange?

18 MR. LANGE: Your Honor, I have nothing to
19 add to the arguments I've already made. I just want
20 to make sure I understand the sentence as it was
21 imposed.

22 The sentence on Count 1 is 175 months. 115
23 of that is concurrent with the sentences on Counts 3,
24 4, and 5 and also with the current Massachusetts
25 sentence. 60 months of that is consecutive to both

1 the other counts and to Massachusetts.

2 THE COURT: Correct.

3 MR. LANGE: In addition, on Count 2 there's
4 a fully consecutive sentence of 60 months. So the
5 first sentence is on Count 1. And with regard to
6 Counts 3, 4, and 5, they're 115 and fully concurrent?

7 THE COURT: They're 120 and they're fully
8 concurrent. So that would be ten years consecutive,
9 the rest concurrent with each other and with the other
10 federal sentences on the different counts and with the
11 state sentence.

12 And, Mr. Feith, any objection on your part?

13 MR. FEITH: None, your Honor.

14 THE COURT: All right. Then the Court
15 hereby imposes the sentence as announced. And, Mr.
16 Austin, it's now my obligation to advise you that you
17 have the right to appeal the sentence that I've
18 imposed to the United States Court of Appeals for the
19 First Circuit located in Boston, Massachusetts.
20 However, any appeal you file must be filed within ten
21 days of the entry of judgment. I expect judgment will
22 be entered today. So you'll have ten days from today
23 to file your appeal.

24 All right. The defendant is remanded to the
25 United States Marshal. Court's adjourned.

53

1 (Court adjourned at 10:50 a.m.)
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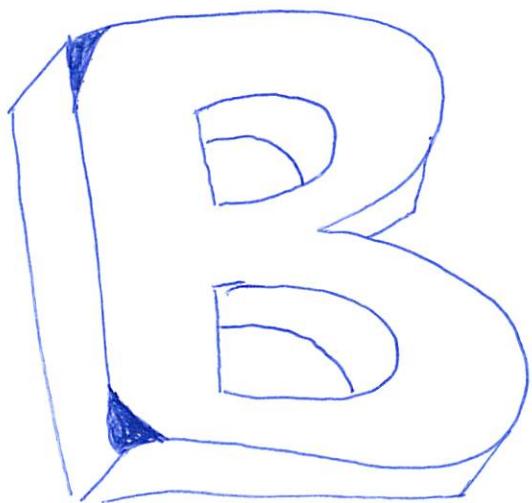
5 C E R T I F I C A T E
6
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I, Diane M. Churas, do hereby certify that
the foregoing transcript is a true and accurate
transcription of the within proceedings, to the best
of my knowledge, skill, ability and belief.

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9 Diane M. Churas
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11 DIANE M. CHURAS, CSR, RPR
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EXHIBIT



U.S. DISTRICT COURT
DISTRICT OF N.H.

United States District Court

UNITED STATES OF AMERICA
v.

Chad E. Austin

Date of Original Judgment: 11/12/1999
(or Date of Last Amended Judgment)

Reason for Amendment:

Correction of Sentence on Remand (Fed. R. Crim. P. 35(a))
 Reduction of Sentence for Changed Circumstances (Fed. R. Crim. P. 35(b))
 Correction of Sentence by Sentencing Court (Fed. R. Crim. P. 35(c))
 Correction of Sentence for Clerical Mistake (Fed. R. Crim. P. 36)

THE DEFENDANT:

pleaded guilty to count(s) _____
 pleaded nolo contendere to count(s) _____ which was accepted by the court.
 was found guilty on count(s) 1, 2, 3, 4, 5 after a plea of not guilty.

Title & Section

18 U.S.C. § 2113 (a)(d)

Nature of Offense

Bank Robbery

Date Offense Concluded	Count Number(s)
02/11/1998	1
02/11/1998	2
02/11/1998	3

18 U.S.C. § 924 (c)

Use of a firearm in a crime of violence

18 U.S.C. § 922 (g)(1)

Possession of a firearm by a prohibited person

See Additional Counts of Conviction - Page 2
The defendant is sentenced as provided in pages 2 through 9 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

 The defendant has been found not guilty on count(s) _____

(is)(are) dismissed on the motion of the United States.

 Count(s) _____

IT IS FURTHER ORDERED that the defendant shall notify the United States Attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid.

Defendant's Soc. Sec. No.: _____

Defendant's Date of Birth: 06/14/1973

Defendant's USM No.: 02205-049

Defendant's Residence Address: MCI-Cedar Junction

Walpole

MA

Defendant's Mailing Address:

MCI-Cedar Junction

Walpole

MA

04/02/2001

Date of Imposition of Judgment

Signature of Judicial Officer

Steven J. McAuliffe

U.S. District Judge

Name & Title of Judicial Officer

Date

April 9, 2001

DEFENDANT: Chad E. Austin

CASE NUMBER: 1:98CR00131-001

ADDITIONAL COUNTS OF CONVICTION

<u>Title & Section</u>	<u>Nature of Offense</u>	<u>Date Offense Concluded</u>	<u>Count Number(s)</u>
18 U.S.C. § 2314	Interstate Transportation of Stolen Property	02/11/1998	4
18 U.S.C. § 2312	Interstate Transportation of a stolen motor vehicle	02/11/1998	5

DEFENDANT: Chad E. Austin

CASE NUMBER: 1:98CR00131-001

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of * 222 month(s).

See Additional Imprisonment Terms - Page 4

The court makes the following recommendations to the Bureau of Prisons:

The defendant is remanded to the custody of the United States Marshal.

The defendant shall surrender to the United States Marshal for this district:

at _____ a.m./p.m. on _____

as notified by the United States Marshal.

The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:

before 2 p.m. on _____

as notified by the United States Marshal.

as notified by the Probation or Pretrial Services Office.

RETURN

I have executed this judgment as follows:

Defendant delivered on _____ to _____
at _____, with a certified copy of this judgment.

UNITED STATES MARSHAL

By _____
Deputy U.S. Marshal

DEFENDANT: Chad E. Austin

CASE NUMBER: 1:98CR00131-001

ADDITIONAL IMPRISONMENT TERMS

On Count 1, 102 months of which shall be served concurrently with and 60 months of which shall be served consecutively with the Massachusetts State sentence now being served. It is further order that defendant is committed to the Bureau of Prisons to be imprisoned for a term of 120 months on each of Counts 3, 4 and 5, such terms to be served concurrently with each other and with the sentence on Count 1, and effective this date, concurrently with the Massachusetts state sentence now being served. It is further ordered that the defendant is hereby committed to the Bureau of Prisons to be imprisoned for a term of 60 months on Count 2, said sentence to be served consecutively to the instant federal sentence on Counts 1, 3, 4 and 5 and consecutively with the Massachusetts State sentence now being served.

DEFENDANT: Chad E. Austin

CASE NUMBER: 1:98CR00131-001

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of 5 year(s).

on Count 1 and terms of 3 years on each of counts 3, 4 and 5, all such terms to run concurrently.

The defendant shall report to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons.

The defendant shall not commit another federal, state, or local crime.

The defendant shall not illegally possess a controlled substance.

For offenses committed on or after September 13, 1994:

The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as directed by the probation officer.

The above drug testing condition is suspended based on the court's determination that the defendant poses a low risk of future substance abuse. (Check, if applicable.)

The defendant shall not possess a firearm as defined in 18 U.S.C. § 921. (Check, if applicable.)

If this judgment imposes a fine or a restitution obligation, it shall be a condition of supervised release that the defendant pay any such fine or restitution that remains unpaid at the commencement of the term of supervised release in accordance with the Schedule of Payments set forth in the Criminal Monetary Penalties sheet of this judgment.

The defendant shall comply with the standard conditions that have been adopted by this court (set forth below). The defendant shall also comply with the additional conditions on the attached page (if indicated below).

See Special Conditions of Supervision - Page 6.

STANDARD CONDITIONS OF SUPERVISION

- 1) the defendant shall not leave the judicial district without the permission of the court or probation officer;
- 2) the defendant shall report to the probation officer and shall submit a truthful and complete written report within the first five days of each month;
- 3) the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
- 4) the defendant shall support his or her dependents and meet other family responsibilities;
- 5) the defendant shall work regularly at a lawful occupation unless excused by the probation officer for schooling, training, or other acceptable reasons;
- 6) the defendant shall notify the probation officer ten days prior to any change in residence or employment;
- 7) the defendant shall refrain from excessive use of alcohol;
- 8) the defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
- 9) the defendant shall not associate with any persons engaged in criminal activity, and shall not associate with any person convicted of a felony unless granted permission to do so by the probation officer;
- 10) the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view of the probation officer;
- 11) the defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;
- 12) the defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court;
- 13) as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics, and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.

DEFENDANT: Chad E. Austin

CASE NUMBER: 1:98CR00131-001

SPECIAL CONDITIONS OF SUPERVISION

The defendant shall provide the probation officer with access to any requested financial information.

The defendant shall not incur new credit charges or open additional lines of credit without the approval of the probation officer unless the defendant is in compliance with the installment payment schedule.

The defendant shall participate in a program approved by the United States Probation Office for treatment of narcotic addiction or drug or alcohol dependency which will include testing for the detection of substance use or abuse. The defendant shall also abstain from the use of alcoholic beverages and/or all other intoxicants during and after the course of treatment. The defendant shall pay for the cost of treatment to the extent he is able as determined by the probation officer.

The defendant shall participate in a program of mental health treatment, as directed by the probation officer, until such time as the defendant is released from the program by the probation officer. The defendant shall pay for the cost of treatment to the extent he is able as determined by the probation officer.

The defendant shall submit his person, residence, office, or vehicle to a search conducted by a U.S. Probation Officer at a reasonable time and in a reasonable manner, based upon reasonable suspicion that contraband or evidence of a violation of a condition of release may exist; failure to submit to a search may be grounds for revocation; the defendant shall warn any other residents that the premises may be subject to searches pursuant to this condition.

The defendant shall not possess or have under his control any dangerous weapons.

DEFENDANT: Chad E. Austin

CASE NUMBER: 1:98CR00131-001

CRIMINAL MONETARY PENALTIES

The defendant shall pay the following total criminal monetary penalties in accordance with the schedule of payments set forth on Sheet 5, Part B.

<u>Assessment</u>	<u>Fine</u>	<u>Restitution</u>
Totals: \$ 500.00	\$	\$ 2,000.00

If applicable, restitution amount ordered pursuant to plea agreement \$ _____

FINE

The above fine includes costs of incarceration and/or supervision in the amount of \$ _____

The defendant shall pay interest on any fine of more than \$2,500, unless the fine is paid in full before the fifteenth day after the date of judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on Sheet 5, Part B may be subject to penalties for default and delinquency pursuant to 18 U.S.C. § 3612(g).

The court determined that the defendant does not have the ability to pay interest and it is ordered that:

- The interest requirement is waived.
- The interest requirement is modified as follows:

RESTITUTION

An Amended Judgment in a Criminal Case

The determination of restitution is deferred until _____ will be entered after such a determination.

The defendant shall make restitution to the following payees in the amounts listed below.

If the defendant makes a partial payment, each payee shall receive an approximately proportional payment unless specified otherwise in the priority order or percentage payment column below.

<u>Name of Payee</u>	<u>* Total Amount of Loss</u>	<u>Amount of Restitution Ordered</u>	<u>Priority Order or Percentage of Payment</u>
Amica Mutual Insurance Company	\$2,000.00		

Totals: \$ _____ \$ 2,000.00

* Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994 but before April 23, 1996.

DEFENDANT: Chad E. Austin
CASE NUMBER: 1:98CR00131-001

SCHEDULE OF PAYMENTS

Payments shall be applied in the following order: (1) assessment; (2) restitution; (3) fine principal; (4) cost of prosecution; (5) interest; (6) penalties.

Payment of the total fine and other criminal monetary penalties shall be due as follows:

- A in full immediately; or
- B \$ 500.00 immediately, balance due (in accordance with C, D, or E); or
- C not later than _____; or
- D in installments to commence 30 day(s) after the date of this judgment. In the event the entire amount of criminal monetary penalties imposed is not paid prior to the commencement of supervision, the U.S. probation officer shall pursue collection of the amount due, and shall request the court to establish a payment schedule if appropriate; or
- E in _____ (e.g. equal, weekly, monthly, quarterly) installments of \$ _____ over a period of _____ year(s) to commence _____ day(s) after the date of this judgment.

The defendant will receive credit for all payments previously made toward any criminal monetary penalties imposed.

Special instructions regarding the payment of criminal monetary penalties:

All financial penalty payments, except those made through the Bureau of Prisons' Inmate Financial Responsibility Program, are to be made to the Clerk, U.S. District Court, 55 Pleasant Street, Room 110, Concord NH 03301. Payment shall be in cash or in a bank check or money order made payable to Clerk, U.S. District Court. Personal checks are not acceptable.

The defendant shall pay the cost of prosecution.

The defendant shall forfeit the defendant's interest in the following property to the United States:

Unless the court has expressly ordered otherwise in the special instructions above, if this judgment imposes a period of imprisonment payment of criminal monetary penalties shall be due during the period of imprisonment. All criminal monetary penalty payments, except those payments made through the Bureau of Prisons' Inmate Financial Responsibility Program are to be made as directed by the court, the probation officer, or the United States attorney.

DEFENDANT: Chad E. Austin

CASE NUMBER: 1:98CR00131-001

STATEMENT OF REASONS The court adopts the factual findings and guideline application in the presentence report.**OR** The court adopts the factual findings and guideline application in the presentence report except (see attachment, if necessary):

as to discounting enhancements on vulnerable victims and restraint as placed on the record

Guideline Range Determined by the Court:

Total Offense Level: 27

Criminal History Category: 6

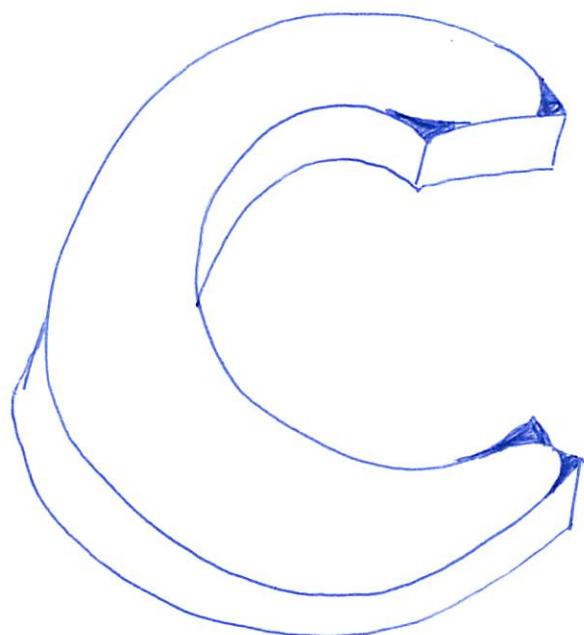
Imprisonment Range: 130 to 162 months (plus 5 years consecutive for Count 2)

Supervised Release Range: 3 to 5 years

Fine Range: \$ 12,500.00 to \$ 125,000.00 Fine waived or below the guideline range because of inability to pay.Total Amount of Restitution: \$ 2,000.00 Restitution is not ordered because the complication and prolongation of the sentencing process resulting from the fashioning of a restitution order outweighs the need to provide restitution to any victims, pursuant to 18 U.S.C. § 3663(d). For offenses committed on or after September 13, 1994 but before April 23, 1996 that require the total amount of loss to be stated, pursuant to Chapters 109A, 110, 110A, and 113A of Title 18, restitution is not ordered because the economic circumstances of the defendant do not allow for the payment of any amount of a restitution order, and do not allow for the payment of any or some portion of a restitution order in the foreseeable future under any reasonable schedule of payments. Partial restitution is ordered for the following reason(s): The sentence is within the guideline range, that range does not exceed 24 months, and the court finds no reason to depart from the sentence called for by the application of the guidelines.**OR** The sentence is within the guideline range, that range exceeds 24 months, and the sentence is imposed for the following reason(s):

Given the defendant's extraordinarily violent and endangering behavior in the aftermath of the armed bank robbery (shooting at police officers, driving at speeds of 100 mph) and defendant's extensive criminal history, a sentence at the top of the range is warranted. (Note the range was adjusted downward by 4 points to insure that offense conduct likely taken into account in his Massachusetts' sentence not be again taken into account in formulating this sentence. And, in addition, part of the sentence imposed was also made concurrent, since a partially concurrent and partially consecutive sentence will serve as an adequate sanction for the offense conduct in this case. The government did not appeal the adjustment and although the Court of Appeals found it improper to adjust downward by 4 points, it did not disturb that adjustment and, instead, held Level 26 to be the applicable total offense level.)

EXHIBIT



APPEAL,CLOSED

**U.S. District Court
District of New Hampshire (Concord)
CRIMINAL DOCKET FOR CASE #: 1:98-cr-00131-SM-1**

Case title: USA v. Austin
Magistrate judge case number: 1:98-mj-00006

Date Filed: 11/04/1998
Date Terminated: 11/12/1999

Assigned to: Judge Steven J. McAuliffe
Appeals court case numbers: 99-2302, CCA
13-1485

Defendant (1)

Chad E. Austin
TERMINATED: 11/12/1999

represented by **Chad E. Austin**
#W66510
MCI - Norfolk (MA)
PO Box 43
Norfolk, MA 02056
PRO SE

Bjorn R. Lange
Federal Defender's Office
The Ralph Pill Building
22 Bridge St
Concord, NH 03301
603 226-7360
Email: bjorn_lange@fd.org
TERMINATED: 11/12/1999
LEAD ATTORNEY
ATTORNEY TO BE NOTICED
*Designation: Public Defender or
Community Defender Appointment*

David H. Bownes
Bownes Law Office PC
20 Canal St
Laconia, NH 03246
603-524-4330
Email: office@dhblaw.net
LEAD ATTORNEY
ATTORNEY TO BE NOTICED
Designation: CJA Appointment

CERTIFIED TO BE A TRUE COPY
BY: *Judith J. Bennett*
JAMES R. STARR, CLERK
DEPUTY CLERK
4-19-2013

Pending Counts

18:2113(a) and (d) BANK ROBBERY BY
FORCE OR VIOLENCE
(1)

Disposition

Deft is hereby committed to the custody of
the Bureau of Prisons to be imprisoned for a
total term of 175 months. On Count 1, 115
months of which shall be served
concurrently with & 60 months of which

shall be served consecutively with the Massachusetts State sentence now being served. It is further ordered that defendant is committed to the Bureau of Prisons to be imprisoned for a term of 120 months on each of Counts 3, 4 & 5, such terms to be served concurrently with each other and with the sentence on Count 1, and effective this date, concurrently with the Massachusetts state sentence now being served. It is further ordered that the defendant is hereby committed to the Bureau of Prisons to be imprisoned for a term of 60 months on Count 2 , said sentence to be served consecutively to the instant federal sentence on Counts 1, 3, 4 & 5 and consecutively with the Massachusetts State sentence now being served; Supervised Release for 5 years on Count 1 and terms of 3 years on each of count s 3,4 & 5, all such terms to run concurrently w/standard conditions; Special Conditions, to provided any financial info, shall not incur new credit charges, shall participate in drug/alcohol treatment program, abstain from alcohol, shall participate in mental health treatment program, shall submit to searches, shall not possess or have under his control any dangerous weapons; Special Penalty Assessment \$500; Restitution \$2,000 to Amica Mutual Insurance Co, \$500 due immediately, balance 30 days after date of judgment in installments; Remanded to US Marshall.

Defendant is hereby committed to the custody of the Bureau of Prisons to be imprisoned for a total term of 175 months. On Count 1, 115 months of which shall be served concurrently with & 60 months of which shall be served consecutively with the Massachusetts State sentence now being served. It is further ordered that defendant is committed to the Bureau of Prisons to be imprisoned for a term of 120 months on each of Counts 3, 4 & 5, such terms to be served concurrently with each other and with the sentence on Count 1, and effective this date, concurrently with the Massachusetts state sentence now being served. It is further ordered that the defendant is hereby committed to the Bureau of Prisons to be imprisoned for a term of 60 months on Count 2 , said sentence to be served consecutively to the instant federal sentence on Counts 1,

18:924(c) USE OF A FIREARM DURING
CRIME OF VIOLENCE

(2)

3, 4 & 5 and consecutively with the Massachusetts State sentence now being served; Supervised Release for 5 years on Count 1 and terms of 3 years on each of count s 3,4 & 5, all such terms to run concurrently w/standard conditions; Special Conditions, to provided any financial info, shall not incur new credit charges, shall participate in drug/alcohol treatment program, abstain from alcohol, shall participate in mental health treatment program, shall submit to searches, shall not possess or have under his control any dangerous weapons; Special Penalty Assessment \$500; Restitution \$2,000 to Amica Mutual Insurance Co, \$500 due immediately, balance 30 days after date of judgment in installments; Remanded to US Marshall.

Deft is hereby committed to the custody of the Bureau of Prisons to be imprisoned for a total term of 175 months. On Count 1, 115 months of which shall be served concurrently with & 60 months of which shall be served consecutively with the Massachusetts State sentence now being served. It is further ordered that defendant is committed to the Bureau of Prisons to be imprisoned for a term of 120 months on each of Counts 3, 4 & 5, such terms to be served concurrently with each other and with the sentence on Count 1, and effective this date, concurrently with the Massachusetts state sentence now being served. It is further ordered that the defendant is hereby committed to the Bureau of Prisons to be imprisoned for a term of 60 months on Count 2 , said sentence to be served consecutively to the instant federal sentence on Counts 1, 3, 4 & 5 and consecutively with the Massachusetts State sentence now being served; Supervised Release for 5 years on Count 1 and terms of 3 years on each of count s 3,4 & 5, all such terms to run concurrently w/standard conditions; Special

Conditions, to provided any financial info, shall not incur new credit charges, shall participate in drug/alcohol treatment program, abstain from alcohol, shall participate in mental health treatment program, shall submit to searches, shall not possess or have under his control any dangerous weapons; Special Penalty Assessment \$500; Restitution \$2,000 to

18:922(g)(1) FELON IN POSSESSION OF A FIREARM

(3r)

18:2314 INTERSTATE TRANSPORTATION
OF STOLEN PROPERTY
(4)

Amica Mutual Insurance Co, \$500 due immediately, balance 30 days after date of judgment in installments; Remanded to US Marshall.

Defendant is hereby committed to the custody of the Bureau of Prisons to be imprisoned for a total term of 175 months. On Count 1, 115 months of which shall be served concurrently with & 60 months of which shall be served consecutively with the Massachusetts State sentence now being served. It is further ordered that defendant is committed to the Bureau of Prisons to be imprisoned for a term of 120 months on each of Counts 3, 4 & 5, such terms to be served concurrently with each other and with the sentence on Count 1, and effective this date, concurrently with the Massachusetts state sentence now being served. It is further ordered that the defendant is hereby committed to the Bureau of Prisons to be imprisoned for a term of 60 months on Count 2, said sentence to be served consecutively to the instant federal sentence on Counts 1, 3, 4 & 5 and consecutively with the Massachusetts State sentence now being served; Supervised Release for 5 years on Count 1 and terms of 3 years on each of counts 3, 4 & 5, all such terms to run concurrently w/standard conditions; Special Conditions, to provided any financial info, shall not incur new credit charges, shall participate in drug/alcohol treatment program, abstain from alcohol, shall participate in mental health treatment program, shall submit to searches, shall not possess or have under his control any dangerous weapons; Special Penalty Assessment \$500; Restitution \$2,000 to Amica Mutual Insurance Co, \$500 due immediately, balance 30 days after date of judgment in installments; Remanded to US Marshall.

Defendant is hereby committed to the custody of the Bureau of Prisons to be imprisoned for a total term of 175 months. On Count 1, 115 months of which shall be served concurrently with & 60 months of which shall be served consecutively with the Massachusetts State sentence now being served. It is further ordered that defendant is committed to the Bureau of Prisons to be imprisoned for a term of 120 months on each

18:2312 INTERSTATE TRANSPORTATION
OF STOLEN VEHICLES
(5)

of Counts 3, 4 & 5, such terms to be served concurrently with each other and with the sentence on Count 1, and effective this date, concurrently with the Massachusetts state sentence now being served. It is further ordered that the defendant is hereby committed to the Bureau of Prisons to be imprisoned for a term of 60 months on Count 2 , said sentence to be served consecutively to the instant federal sentence on Counts 1, 3, 4 & 5 and consecutively with the Massachusetts State sentence now being served; Supervised Release for 5 years on Count 1 and terms of 3 years on each of counts 3,4 & 5, all such terms to run concurrently w/standard conditions; Special Conditions, to provided any financial info, shall not incur new credit charges, shall participate in drug/alcohol treatment program, abstain from alcohol, shall participate in mental health treatment program, shall submit to searches, shall not possess or have under his control any dangerous weapons; Special Penalty Assessment \$500; Restitution \$2,000 to Amica Mutual Insurance Co, \$500 due immediately, balance 30 days after date of judgment in installments; Remanded to US Marshall.

Highest Offense Level (Opening)

Felony

Terminated Counts

None

Disposition

Highest Offense Level (Terminated)

None

Complaints

None

Disposition

Plaintiff

USA

represented by Donald A. Feith
US Attorney's Office (NH)
James C. Cleveland Federal Building
53 Pleasant St, 4th Flr
Concord, NH 03301-0001
603 225-1552

Email: donald.feith@usdoj.gov
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
02/11/1998	1	COMPLAINT as to Chad E. Austin. Added AUSA Donald A. Feith [1:98-m -6] (cm) (Entered: 02/12/1998)
02/11/1998		Arrest WARRANT issued as to Chad E. Austin; original warrant and copies to US Marshal and US Probation [1:98-m -6] (cm) (Entered: 02/12/1998)
11/04/1998	2	INDICTMENT as to Chad E. Austin (1) count(s) 1, 2, 3, 4, 5 Added AUSA Donald A. Feith. (bc) (Entered: 11/05/1998)
11/04/1998	3	Praecipe for Arrest Warrant as to Chad E. Austin (bc) (Entered: 11/05/1998)
11/05/1998		Arrest WARRANT issued as to Chad E. Austin ; original warrant and copies to US Marshal and US Probation (bc) (Entered: 11/05/1998)
11/09/1998	4	PETITION by USA for Writ of Habeas Corpus ad prosequendum as to Chad E. Austin (amm) (Entered: 11/09/1998)
11/09/1998		WRIT of Habeas Corpus ad Prosequendum issued as to Chad E. Austin for 11/19/98 (amm) (Entered: 11/09/1998)
11/19/1998		Re Chad Austin: INITIAL APPEARANCE/ARRAIGNMENT held before Magistrate Judge Muirhead in Courtroom B. Defendant sworn, advised of rights and charges. Defendant waived reading of indictment. Plea of NOT GUILTY to Counts 1-5 entered and accepted by the court. Government is seeking detention. Defense counsel stated that defendant is in process of appealing his recent Massachusetts State Court conviction and needs access to his Massachusetts counsel and prison law library. Defendant released on personal recognizance and special conditions as outlined in Order Setting Conditions of Release. Trial is set for 1/5/99 with an estimated length of 1 week. Case is not complex. Defendant remains in custody of State of Massachusetts. Court Reporter/Tape #: B:69 (854-1347) (jeb) Modified on 11/20/1998 (Entered: 11/19/1998)
11/19/1998	5	FINANCIAL AFFIDAVIT by Chad E. Austin (amm) (Entered: 11/24/1998)
11/19/1998	6	Appointment of Federal Defender as to Chad E. Austin : Added Bjorn R. Lange (Signed by James R. Starr, Clerk) (amm) (Entered: 11/24/1998)
11/19/1998	7	Arrest WARRANT Returned Executed on 11/19/98 as to Chad E. Austin (amm) (Entered: 11/24/1998)
11/19/1998	8	ORDER Setting Conditions of Release as to Chad E. Austin Bond set to Personal Recognizance for Chad E. Austin; to report when and where ordered by the court; to report to US Probation regularly; to clear up all pending charges in Massachusetts; Bail will become effective after all imposed sentences have been satisfied in Massachusetts (Signed by Magistrate Judge James R. Muirhead) (amm) (Entered: 11/24/1998)
11/19/1998		ENDORSED ORDER as to Chad E. Austin granting [5-1] financial affidavit as to Chad E. Austin (1) (Entered by Magistrate Judge James R. Muirhead) (amm) (Entered: 11/24/1998)
11/20/1998	9	WRIT of Habeas Corpus ad Prosequendum executed as to Chad E. Austin on 11/19/98 (amm) Modified on 11/24/1998 (Entered: 11/23/1998)

11/24/1998		Re Chad Austin: TRIAL NOTICE. Final Pretrial Conference set for 4:00 12/16/98 ; Jury Trial set for 2-week period beginning 9:30 1/5/98 ; (before Judge Steven J. McAuliffe) (amm) (Entered: 11/24/1998)
12/04/1998	10	Assented to MOTION by Chad E. Austin for Continuance of Trial in Interests of Justice until on or after 4/14/99 with waiver of speedy trial. (mm) Modified on 12/14/1998 (Entered: 12/04/1998)
12/10/1998	11	ORDER as to Chad E. Austin granting [10-1] motion for Continuance of Trial in Interests of Justice until on or after 4/14/99 Time Excluded from 2/4/99 to 5/4/99 as to Chad E. Austin (1), set Jury Trial for 9:30 5/4/99 for Chad E. Austin , set Final Pretrial Conference for 8:30 4/15/99 for Chad E. Austin (Signed by Judge Steven J. McAuliffe) (amm) (Entered: 12/14/1998)
12/18/1998	12	Arrest WARRANT Returned Executed on 11/9/98 as to Chad E. Austin (amm) (Entered: 12/20/1998)
03/22/1999	13	MOTION by Chad E. Austin for deft to be appointed as co-counsel Objections to Motion due by 4/12/99 for USA (amm) (Entered: 03/22/1999)
03/29/1999	14	OBJECTION by USA as to Chad E. Austin re: [13-1] motion for deft to be appointed as co-counsel (amm) (Entered: 03/30/1999)
04/06/1999	15	Addendum by Chad E. Austin as to Chad E. Austin to [13-1] motion for deft to be appointed as co-counsel (amm) (Entered: 04/07/1999)
04/14/1999		ENDORSED ORDER as to Chad E. Austin denying [13-1] motion for deft to be appointed as co-counsel as to Chad E. Austin (1) (Entered by Judge Steven J. McAuliffe) (amm) (Entered: 04/23/1999)
04/15/1999		Re Chad Austin: FINAL PRETRIAL CONFERENCE held before Judge Steven J. McAuliffe in Rm 421 (amm) (Entered: 04/15/1999)
04/22/1999	16	FINAL PRETRIAL ORDER as to Chad E. Austin: Jury selection on 5/4/99 at 9:30; Evidence to commence 5/17/99 at 9:00; Govt entitled to 6 peremptory challenges; Deft entitled to 10 peremptory challenges; Each side entitled to 2 additional peremptory challenges for alternates; Witness lists due 5/4/99; Jury instructions due 5/17/99; Voir dire due 5/4/99 at 8:30; Exhibits due 5/10/99; Motions in Limine due 4/26/99, objections due 5/4/99. (Signed by Judge Steven J. McAuliffe) (amm) (Entered: 04/23/1999)
04/23/1999	17	PETITION by USA for Writ of Habeas Corpus ad prosequendum as to Chad E. Austin (amm) (Entered: 04/26/1999)
04/26/1999		WRIT of Habeas Corpus ad Prosequendum issued as to Chad E. Austin for 5/4/99 (amm) (Entered: 04/26/1999)
04/28/1999	18	MOTION by Chad E. Austin to Suppress (amm) (Entered: 04/28/1999)
04/28/1999	19	MOTION by Chad E. Austin in Limine on marital privilege Objections to Motion due by 5/4/99 for USA (amm) (Entered: 04/28/1999)
04/28/1999	20	MOTION by Chad E. Austin in Limine on uncharged misconduct Objections to Motion due by 5/4/99 for USA (amm) (Entered: 04/28/1999)
04/28/1999	21	MOTION by Chad E. Austin to Suppress Letter (amm) (Entered: 04/28/1999)
04/30/1999	22	MOTION by Chad E. Austin to Appear Pro Se government takes no position; no memo (jab) (Entered: 04/30/1999)
05/03/1999	23	Witness list by USA as to Chad E. Austin (amm) (Entered: 05/03/1999)

05/03/1999	24	RESPONSE by USA as to Chad E. Austin re [18-1] motion to Suppress (amm) (Entered: 05/03/1999)
05/03/1999	25	OBJECTION by USA as to Chad E. Austin re: [21-1] motion to Suppress Letter (amm) (Entered: 05/03/1999)
05/03/1999	26	RESPONSE by USA as to Chad E. Austin re [19-1] motion in Limine on marital privilege (amm) (Entered: 05/03/1999)
05/03/1999	27	RESPONSE by USA as to Chad E. Austin re [20-1] motion in Limine on uncharged misconduct (amm) (Entered: 05/03/1999)
05/03/1999	28	MOTION by Chad E. Austin for special voir dire (amm) (Entered: 05/03/1999)
05/04/1999	29	SUPPLEMENTAL Witness list by USA as to Chad E. Austin (amm) (Entered: 05/04/1999)
05/04/1999		ENDORSED ORDER as to Chad E. Austin granting [22-1] motion to Appear Pro Se as to Chad E. Austin (1) (Entered by Judge Steven J. McAuliffe) (amm) (Entered: 05/05/1999)
05/04/1999		ENDORSED ORDER as to Chad E. Austin granting [28-1] motion for special voir dire as to Chad E. Austin (1); Granted to the extent the requests are adequately covered in the court's standard voir dire. (Entered by Judge Steven J. McAuliffe) (amm) (Entered: 05/05/1999)
05/04/1999		MOTION HEARING re: [22-1] motion to Appear Pro Se before Judge Steven J. McAuliffe Court Reporter: D. Churas (amm) (Entered: 05/05/1999)
05/04/1999		Jury trial, Day 1, Jury Selection only; as to Chad E. Austin begun count(s) 1, 2, 3, 4, 5; Court Reporter: D. Churas (amm) (Entered: 05/05/1999)
05/04/1999	295	Witness list by Chad E. Austin (amm) (Entered: 05/12/1999)
05/05/1999		MOTION HEARING re: [21-1] motion to Suppress Letter set at 2:00 5/12/99 for Chad E. Austin, [20-1] motion in Limine on uncharged misconduct set at 2:00 5/12/99 for Chad E. Austin, [19-1] motion in Limine on marital privilege set at 2:00 5/12/99 for Chad E. Austin, [18-1] motion to Suppress set at 2:00 5/12/99 for Chad E. Austin before Judge Steven J. McAuliffe (amm) (Entered: 05/05/1999)
05/06/1999	30	Jury list as to Chad E. Austin (amm) (Entered: 05/06/1999)
05/06/1999	31	MOTION by Chad E. Austin on conditions of confinement (amm) (Entered: 05/07/1999)
05/06/1999	32	MOTION by Chad E. Austin to supplement motion to suppress letter (amm) (Entered: 05/07/1999)
05/06/1999	33	MOTION by Chad E. Austin for disclosure (amm) (Entered: 05/07/1999)
05/10/1999	34	MOTION by Chad E. Austin to subpoena witnesses (amm) (Entered: 05/11/1999)
05/12/1999		MOTION HEARING re: [34-1] motion to subpoena witnesses, held in camera only as to motion-to-subpoena-witnesses; [33-1]-motion-for-disclosure, [32-1]-motion-to-supplement motion to suppress letter, [31-1] motion on conditions of confinement, [21-1] motion to Suppress Letter Motion hearing held, [20-1] motion in Limine on uncharged misconduct Motion hearing held, [19-1] motion in Limine on marital privilege Motion hearing held, [18-1] motion to Suppress Motion hearing held before Judge Steven J. McAuliffe Court Reporter/Tape #: D. Churas (amm) (Entered: 05/13/1999)
05/12/1999		MOTION in open court by Chad E. Austin for haircut prior to trial (amm) (Entered: 05/13/1999)

05/12/1999		ORAL ORDER as to Chad E. Austin granting [0-0] oral motion for haircut prior to trial as to Chad E. Austin (1) Dft to receive adequate haircut before trial. (Entered by Judge Steven J. McAuliffe) (amm) (Entered: 05/13/1999)
05/12/1999		MOTION in open court by USA as to Chad E. Austin for request for use of ctrm #4 because of exhibits for trial (amm) (Entered: 05/13/1999)
05/12/1999		ORAL ORDER as to Chad E. Austin granting [0-0] oral motion for request for use of ctrm #4 because of exhibits for trial as to Chad E. Austin (1) (Entered by Judge Steven J. McAuliffe) (amm) (Entered: 05/13/1999)
05/12/1999		ENDORSED ORDER as to Chad E. Austin denying [31-1] motion on conditions of confinement as to Chad E. Austin (1) (Entered by Judge Steven J. McAuliffe) (amm) (Entered: 05/13/1999)
05/12/1999		ENDORSED ORDER as to Chad E. Austin denying [19-1] motion in Limine on marital privilege as to Chad E. Austin (1); Denied without prejudice to interposing an objection at the appropriate time if the testimony is offered. (Entered by Judge Steven J. McAuliffe) (amm) (Entered: 05/13/1999)
05/12/1999	35	SUPPLEMENTAL MOTION by Chad E. Austin in Limine on Admissions (amm) (Entered: 05/13/1999)
05/12/1999	36	SUPPLEMENTAL MOTION by Chad E. Austin to Suppress Letter (amm) (Entered: 05/13/1999)
05/12/1999	37	MOTION by Chad E. Austin in Limine on Admissions (amm) (Entered: 05/13/1999)
05/12/1999		ORAL ORDER as to Chad E. Austin granting in part, denying in part [34-1] motion to subpoena witnesses as to Chad E. Austin (1) (Entered by Judge Steven J. McAuliffe) (amm) (Entered: 05/13/1999)
05/12/1999		ORAL ORDER as to Chad E. Austin [21-1] motion to Suppress Letter taken under advisement as to Chad E. Austin (1), [36-1] motion to Suppress Letter taken under advisement as to Chad E. Austin (1) (Entered by Judge Steven J. McAuliffe) (amm) (Entered: 05/13/1999)
05/12/1999		MOTION in open court by Chad E. Austin to sequester witnesses (amm) (Entered: 05/13/1999)
05/12/1999		ORAL ORDER as to Chad E. Austin granting [0-0] oral motion to sequester witnesses as to Chad E. Austin (1) (Entered by Judge Steven J. McAuliffe) (amm) (Entered: 05/13/1999)
05/14/1999	38	ASSENTED TO MOTION by Chad E. Austin for witness travel at govt expense (amm) (Entered: 05/14/1999)
05/17/1999	39	Exhibit list by USA as to Chad E. Austin (jab) (Entered: 05/17/1999)
05/17/1999	40	Jury list as to Chad E. Austin (jab) (Entered: 05/17/1999)
05/17/1999	41	Proposed-Jury-Instructions-by-USA-as-to-Chad-E.-Austin-(jab)-(Entered: 05/17/1999)
05/17/1999	42	UNOPPOSED MOTION by Chad E. Austin To Subpoena Witness memo (jab) (Entered: 05/17/1999)
05/17/1999	43	Exhibit list by Chad E. Austin (jab) (Entered: 05/17/1999)
05/17/1999		ENDORSED ORDER as to Chad E. Austin granting [38-1] motion for witness travel at govt expense as to Chad E. Austin (1) (Entered by Judge Steven J. McAuliffe) (jab) (Entered: 05/17/1999)

05/17/1999		ENDORSED ORDER denying [36-1] motion to Suppress Letter as to Chad E. Austin (1) (Entered by Judge Steven J. McAuliffe) (jab) (Entered: 05/18/1999)
05/17/1999		ENDORSED ORDER as to Chad E. Austin granting in part, denying in part [20-1] motion in Limine on uncharged misconduct as to Chad E. Austin (1) (Entered by Judge Steven J. McAuliffe) (jab) (Entered: 05/18/1999)
05/17/1999		ENDORSED ORDER granting [33-1] motion for disclosure as to Chad E. Austin (1). Motion granted to the extend not waived -- government complied as to "explanation" request. (Entered by Judge Steven J. McAuliffe) (jab) (Entered: 05/18/1999)
05/17/1999		ENDORSED ORDER as to Chad E. Austin granting [32-1] motion to supplement motion to suppress letter as to Chad E. Austin (1) (Entered by Judge Steven J. McAuliffe) (jab) (Entered: 05/18/1999)
05/17/1999		DAY 2: Jury trial as to Chad E. Austin held before Judge McAuliffe in Courtroom 1. Jury sworn. Opening statements by Atty. Feith and Mr. Austin. Government's evidence begins. [Court Reporter: D. Churas] (jab) (Entered: 05/18/1999)
05/17/1999		ENDORSED ORDER as to Chad E. Austin denying [18-1] motion to Suppress as to Chad E. Austin (1) (Entered by Judge Steven J. McAuliffe) (jab) (Entered: 05/18/1999)
05/17/1999		ENDORSED ORDER as to Chad E. Austin denying [21-1] motion to Suppress Letter as to Chad E. Austin (1) (Entered by Judge Steven J. McAuliffe) (jab) (Entered: 05/18/1999)
05/17/1999		ENDORSED ORDER as to Chad E. Austin granting [42-1] motion To Subpoena Witness as to Chad E. Austin (1) (Entered by Judge Steven J. McAuliffe) (amm) (Entered: 05/18/1999)
05/18/1999		ENDORSED ORDER as to Chad E. Austin denying [37-1] motion in Limine on Admissions as to Chad E. Austin (1) (Entered by Judge Steven J. McAuliffe) (amm) (Entered: 05/18/1999)
05/18/1999		ENDORSED ORDER as to Chad E. Austin denying [35-1] motion in Limine on Admissions as to Chad E. Austin (1) (Entered by Judge Steven J. McAuliffe) (amm) (Entered: 05/19/1999)
05/18/1999		Jury trial, Day 3, as to Chad E. Austin held; Hearing re: missing photo; Govt to search again; Deft's oral motion to strike testimony of Ms. Lafond; Court denies motion to strike testimony; Court denies deft's motion in limine re: admissions and supplemental motion (doc#'s 35 & 37); Govt's evidence continues; Govt rests subject to review of exhibits; Deft's oral motion for judgment on acquittal of all counts in accordance with rule 29; Court denies motion. Court Reporters: D. Churas/AM; S. Kulacz/PM (amm) (Entered: 05/19/1999)
05/18/1999		MOTION in open court by Chad E. Austin to Strike testimony of Ms. LaFond (amm) (Entered: 05/19/1999)
05/18/1999		ORAL ORDER as to Chad E. Austin denying [0-0] oral motion to Strike testimony of Ms. LaFond-as-to-Chad-E-Austin-(1) (Entered by Judge Steven J. McAuliffe) (amm) (Entered: 05/19/1999)
05/18/1999		MOTION in open court by Chad E. Austin for Judgment of Acquittal on all counts pursuant to Rule 29 (amm) (Entered: 05/19/1999)
05/18/1999		ORAL ORDER as to Chad E. Austin denying oral motion for Judgment of Acquittal on all counts pursuant to Rule 29 as to Chad E. Austin (1) (Entered by Judge Steven J. McAuliffe) (amm) (Entered: 05/19/1999)

05/19/1999	44	MOTION by Chad E. Austin to subpoena additional witnesses (amm) (Entered: 05/19/1999)
05/19/1999		IN CAMERA MOTION HEARING re: [44-1] motion to subpoena additional witnesses before Judge Steven J. McAuliffe Court Reporter/Tape #: D. Churas (amm) (Entered: 05/19/1999)
05/19/1999		ORAL ORDER as to Chad E. Austin granting in part, denying in part [44-1] motion to subpoena additional witnesses as to Chad E. Austin (1) (Entered by Judge Steven J. McAuliffe) (amm) (Entered: 05/19/1999)
05/19/1999		ENDORSED ORDER as to Chad E. Austin (follows oral order granting in part, denying in part [44-1] motion to subpoena additional witnesses as to Chad E. Austin (1) entered 5/19/99) (Entered by Judge Steven J. McAuliffe) (amm) (Entered: 05/19/1999)
05/19/1999		Jury trial, Day 4, as to Chad E. Austin held; Stipulation read into the record; Deft's evidence commences; In camera hearings held; Charging conference scheduled for 5/20 at 10:00 a.m. (amm) (Entered: 05/19/1999)
05/19/1999		IN CAMERA MOTION HEARING re: [44-1] motion to subpoena additional witnesses held and Deft's oral motion for subpoenas before Judge Steven J. McAuliffe Court Reporter/Tape #: D. Churas (amm) (Entered: 05/19/1999)
05/19/1999	47	Jury Instructions as to Chad E. Austin (amm) (Entered: 05/21/1999)
05/20/1999	45	Proposed Jury Instructions by Chad E. Austin (amm) (Entered: 05/20/1999)
05/20/1999	46	MOTION by Chad E. Austin on unavailable evidence (amm) (Entered: 05/20/1999)
05/20/1999		Re Chad Austin: CHARGING CONFERENCE held before Judge Steven J. McAuliffe in Ctrm #1. Court Reporter/Tape #: D. Churas (amm) (Entered: 05/20/1999)
05/20/1999		ORAL ORDER as to Chad E. Austin denying [46-1] motion on unavailable evidence as to Chad E. Austin (1) (Entered by Judge Steven J. McAuliffe) (amm) (Entered: 05/20/1999)
05/20/1999		Count Redaction Chad E. Austin (1): Former count 3 is now count 3r. (amm) (Entered: 05/20/1999)
05/21/1999		Jury trial, Day 5, as to Chad E. Austin held; Deft's evidence continues; Deft rests. Deft's oral motion for directed verdict on all counts. Court denies motion. Closing arguments and charge. Jury deliberations. Jury verdict. Court Reporter: D. Churas (amm) (Entered: 05/24/1999)
05/21/1999		MOTION in open court by Chad E. Austin for directed verdict on all counts (amm) (Entered: 05/24/1999)
05/21/1999		ORAL ORDER as to Chad E. Austin denying oral motion for directed verdict on all counts as to Chad E. Austin (1) (Entered by Judge Steven J. McAuliffe) (amm) (Entered: 05/24/1999)
05/21/1999	48	JURY-VERDICT of, Guilty: Chad E. Austin (1) count(s) 1, 2, 3r, 4, 5 (amm) (Entered: 05/24/1999)
05/24/1999		Re Chad Austin: RETURN OF EXHIBIT(S) [43-1] to Bjorn R. Lange for Chad E. Austin . (amm) (Entered: 05/24/1999)
05/24/1999		Re Chad Austin: RETURN OF EXHIBIT(S) [39-1] to Donald A. Feith for Chad E. Austin . (amm) (Entered: 05/24/1999)

05/24/1999		RE Chad Austin: SENTENCING set for 10:00 8/25/99 for Chad E. Austin (1) count(s) 1, 2, 4, 5, 3r before Judge Steven J. McAuliffe in Warren Rudman Courthouse. (amm) (Entered: 05/24/1999)
08/11/1999	49	ASSENTED TO MOTION by Chad E. Austin to Continue Sentencing to 10/18/99 (amm) (Entered: 08/12/1999)
08/17/1999	50	PETITION by USA for Writ of Habeas Corpus ad prosequendum as to Chad E. Austin (jab) (Entered: 08/17/1999)
08/17/1999		WRIT of Habeas Corpus ad Prosequendum issued as to Chad E. Austin for 8/25/99 (jab) (Entered: 08/17/1999)
08/23/1999		ENDORSED ORDER as to Chad E. Austin granting [49-1] motion to Continue Sentencing to 10/18/99 as to Chad E. Austin (1), reset Sentencing for 9:30 11/1/99 for Chad E. Austin (Entered by Judge Steven J. McAuliffe) (amm) (Entered: 08/23/1999)
10/14/1999	51	PETITION by USA for Writ of Habeas Corpus ad prosequendum as to Chad E. Austin (amm) (Entered: 10/17/1999)
10/17/1999		WRIT of Habeas Corpus ad Prosequendum issued as to Chad E. Austin for 11/1/99 (amm) (Entered: 10/17/1999)
10/20/1999		RE Chad Austin: SENTENCING reset for 9:30 11/12/99 for Chad E. Austin (1) count(s) 1, 2, 4, 5, 3r before Judge Steven J. McAuliffe in Warren Rudman Courthouse. (amm) (Entered: 10/20/1999)
10/27/1999	52	PETITION by USA for Writ of Habeas Corpus ad prosequendum as to Chad E. Austin (amm) (Entered: 10/27/1999)
10/27/1999		WRIT of Habeas Corpus ad Prosequendum issued as to Chad E. Austin for 11/12/99 (amm) (Entered: 10/27/1999)
11/09/1999	53	SENTENCING MEMORANDUM by USA as to Chad E. Austin (amm) (Entered: 11/10/1999)
11/10/1999	54	SENTENCING MEMORANDUM by Chad E. Austin (amm) (Entered: 11/10/1999)
11/12/1999		RE Chad E. Austin: SENTENCING held Chad E. Austin (1) count(s) 1, 2, 3r, 4, 5 before Judge Steven J. McAuliffe in ctm 5. Court Reporter/Tape #: D. Churas (amm) (Entered: 11/12/1999)
11/12/1999	55	JUDGMENT Chad E. Austin (1) count(s) 1, 2 , 3r , 4 , 5 . Deft is hereby committed to the custody of the Bureau of Prisons to be imprisoned for a total term of 175 months. On Count 1, 115 months of which shall be served concurrently with & 60 months of which shall be served consecutively with the Massachusetts State sentence now being served. It is further ordered that defendant is committed to the Bureau of Prisons to be imprisoned for a term of 120 months on each of Counts 3, 4 & 5, such terms to be served concurrently with each other and with the sentence on Count 1, and effective this date, concurrently with the Massachusetts state sentence now being served. It is further ordered that the defendant is hereby committed to the Bureau of Prisons to be imprisoned for a term of 60 months on Count 2, said sentence to be served consecutively to the instant federal sentence on Counts 1, 3, 4 & 5 and consecutively with the Massachusetts State sentence now being served; Supervised Release for 5 years on Count 1 and terms of 3 years on each of counts 3,4 & 5, all such terms to run concurrently w/standard conditions; Special Conditions, to provided any financial info, shall not incur new credit charges, shall participate in drug/alcohol treatment program, abstain from alcohol, shall participate in mental health treatment program, shall submit to searches, shall not possess or have under his control any dangerous weapons; Special Penalty Assessment \$500;

		Restitution \$2,000 to Amica Mutual Insurance Co, \$500 due immediately, balance 30 days after date of judgment in installments; Remanded to US Marshall. (Signed by Judge Steven J. McAuliffe) (amm) (Entered: 11/12/1999)
11/12/1999		Termination of party Chad E. Austin pending deadlines and pending motions as to Chad E. Austin (amm) (Entered: 11/12/1999)
11/12/1999		**Case closed as to Chad E. Austin (all defendants). (amm) (Entered: 11/12/1999)
11/15/1999	56	NOTICE OF APPEAL by Chad E. Austin . Fee Status: not paid Appeal Record Transmittal Due 11/22/99 ; File-stamped copy to parties/CCA with Appeal Information Sheet; copy of docket sheet to CCA. (amm) (Entered: 11/15/1999)
11/15/1999		Appeal record sent to CCA with Clerk's certificate on [56-1] appeal by Chad E. Austin -- transmitting documents: 1-56 (amm) (Entered: 11/15/1999)
11/18/1999		Supplemental clerk's certificate to CCA on [56-1] appeal by Chad E. Austin -- transmitting documents: PSR (amm) (Entered: 11/18/1999)
11/22/1999	57	NOTICE OF APPEAL and Motion for New Counsel by Chad E. Austin . Fee Status: not paid ; File-stamped copy to parties/CCA with Appeal Information Sheet; copy of docket sheet to CCA. (amm) (Entered: 11/23/1999)
11/24/1999		Supplemental clerk's certificate to CCA on [56-1] appeal by Chad E. Austin -- transmitting documents: 57 Notice of Appeal/Motion for Counsel (amm) (Entered: 11/24/1999)
12/15/1999		NOTICE of Docketing ROA from USCA Re: [57-1] appeal by Chad E. Austin USCA NUMBER: 99-2302 (amm) (Entered: 12/15/1999)
12/21/1999	58	TRANSCRIPT as to Chad E. Austin for Jury Trial, Day 3 held on 5/18/99, afternoon session; Court Reporter: S. Kulacz (amm) (Entered: 12/21/1999)
12/21/1999		Supplemental clerk's certificate to CCA on [57-1] appeal by Chad E. Austin -- transmitting documents: 58, Transcript (amm) (Entered: 12/21/1999)
01/25/2000	59	TRANSCRIPT as to Chad E. Austin for motion hrg held on 5/4/99; Court Reporter: D. Churas (amm) (Entered: 01/25/2000)
01/25/2000	60	TRANSCRIPT as to Chad E. Austin for motion hrearing held on 5/12/99; Court Reporter: D. Churas (amm) (Entered: 01/25/2000)
01/25/2000	61	TRANSCRIPT as to Chad E. Austin for sealed hearing held on 5/12/99; Court Reporter: D. Churas (amm) (Entered: 01/25/2000)
01/25/2000	62	TRANSCRIPT as to Chad E. Austin for jury trial, day 2 held on 5/17/99; Court Reporter: D. Churas (amm) (Entered: 01/25/2000)
01/25/2000	63	TRANSCRIPT as to Chad E. Austin for jury trial, day 3 held on 5/18/99; Court Reporter: D. Churas (amm) (Entered: 01/25/2000)
01/25/2000	64	TRANSCRIPT as to Chad E. Austin for sealed hrg held on 5/19/99; Court Reporter: D. Churas (amm) (Entered: 01/25/2000)
01/25/2000	65	TRANSCRIPT as to Chad E. Austin for jury trial day 4 held on 5/19/99; Court Reporter: D. Churas (amm) (Entered: 01/25/2000)
01/25/2000	66	TRANSCRIPT as to Chad E. Austin for charging conference held on 5/20/99; Court Reporter: D. Churas (amm) (Entered: 01/25/2000)
01/25/2000	67	TRANSCRIPT as to Chad E. Austin for jury trial, day 5 held on 5/21/99; Court Reporter: D. Churas (amm) (Entered: 01/25/2000)

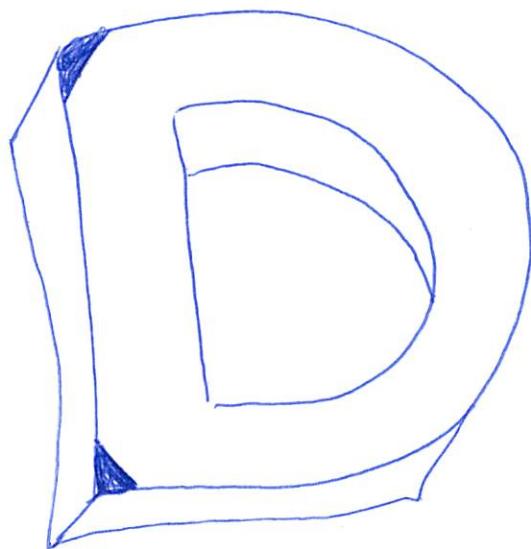
01/25/2000	68	TRANSCRIPT as to Chad E. Austin for sentencing held on 11/12/99; Court Reporter: D. Churas (amm) (Entered: 01/25/2000)
01/25/2000		Supplemental clerk's certificate to CCA on [57-1] appeal by Chad E. Austin, [56-1] appeal by Chad E. Austin -- transmitting documents: 59 - 68 Transcripts (amm) (Entered: 01/25/2000)
01/09/2001	69	OPINION of CCA Re: [57-1] appeal; Affirmed in part, vacated in part, and Remanded for resentencing. (amm) (Entered: 01/09/2001)
02/02/2001	70	MANDATE OF CCA (certified copy) as to Chad E. Austin Re: [57-1] appeal, [56-1] appeal, affirmed in part, vacated in part, and remanded for resentencing (amm) (Entered: 02/02/2001)
02/15/2001		Record on appeal returned from U.S. Court of Appeals: [57-1] appeal by Chad E. Austin, [56-1] appeal by Chad E. Austin (amm) (Entered: 02/15/2001)
02/23/2001		RE Chad Austin: SENTENCING set for 11:00 4/2/01 for Chad E. Austin Chad E. Austin (1) count(s) 1, 2, 4, 5, 3r before Judge Steven J. McAuliffe in Ctrm 5. (amm) (Entered: 02/23/2001)
02/23/2001	71	ORDER as to Chad E. Austin re Disposition of Sealed Document(s) [64-1], [61-1] . Unless alternative response is received, document(s) will be unsealed & docketed & filed. Set sealed document deadline for 3/15/01 for Chad E. Austin, for USA . (Signed by Judge Steven J. McAuliffe) (amm) (Entered: 02/23/2001)
03/01/2001	72	FINANCIAL AFFIDAVIT by Chad E. Austin (amm) (Entered: 03/01/2001)
03/02/2001		ENDORSED ORDER as to Chad E. Austin granting [72-1] financial affidavit as to Chad E. Austin (1) effective 2/24/01(Entered by Magistrate Judge James R. Muirhead) (amm) (Entered: 03/02/2001)
03/02/2001	73	CJA 20 for Chad E. Austin effective 2/24/01 . Appointment of David H. Bownes as court-appointed counsel for resentencing . Review case for submission of final voucher by 8/29/01 for David H. Bownes .(Signed by James R. Starr,Clerk) (amm) (Entered: 03/02/2001)
03/23/2001		ACTION BY CLERK OF COURT: as to Chad E. Austin Document #61,64 are filed and unsealed [71-1] order has been filed there being no objection. (amm) (Entered: 03/23/2001)
03/23/2001	74	PETITION by USA for Writ of Habeas Corpus ad prosequendum as to Chad E. Austin (amm) (Entered: 03/23/2001)
03/23/2001		WRIT of Habeas Corpus ad Prosequendum issued as to Chad E. Austin for 4/2/01 (amm) (Entered: 03/23/2001)
03/30/2001	75	BRIEF MEMORANDUM by Chad E. Austin for clarification relating to sentencing issues. (amm) (Entered: 03/30/2001)
04/02/2001		RE Chad E. Austin: RE-SENTENCING held Chad E. Austin (1) count(s) 1, 2, 3r, 4, 5 before Judge Steven J. McAuliffe in ctrm 2. Court Reporter/Tape #: S. Kulacz(amm) (Entered: 04/02/2001)
04/02/2001	76	AMENDED JUDGMENT: Chad E. Austin (1) count(s) 1, 2 , 3r , 4 , 5. Deft is hereby committed to the custody of the Bureau of Prisons to be imprisoned for a total term of 225 months. On Count 1, 102 months of which shall be served concurrently with & 60 months of which shall be served consecutively the Massachusetts State sentence now being served. It is further ordered that defendant is committed to the Bureau Prisons to be imprisoned for a term of 120 months on each Counts 3, 4 & 5, such terms to be served

		concurrently with each other and with the sentence on Count 1, and effective this date, concurrently with the Massachusetts state sentence now being served. It is further ordered that the defendant is hereby committed to the Bureau of Prisons to imprisoned for a term of 60 months on Count 2, said to be served consecutively to the instant federal sentence on Counts 1, 3, 4 & 5 and consecutively with the Massachusetts State sentence now being served; Supervised Release for 5 years on Count 1 and terms of 3 years on each of counts 3,4 & 5, all such terms to run concurrently w/standard conditions; Special Conditions, to provided any financial info, shall not incur new credit charges, shall participate in drug/alcohol treatment program, abstain from alcohol, shall participate in mental health treatment program, shall submit to searches, shall not possess or under his control any dangerous weapons; Special Penalty Assessment \$500; Restitution \$2,000 to Amica Mutual Insurance Co. balance due 30 days after date of judgment in installments; Remanded to US Marshall. (Signed by Judge Steven J. McAuliffe) (amm) (Entered: 04/02/2001)
04/05/2001	77	AMENDED JUDGMENT: Chad E. Austin (1) count(s) 1, 2 , 3r , 4 , 5 . Deft is hereby committed to the custody of the Bureau of Prisons to be imprisoned for a total term of 222 months. On Count 1, 115 months of which shall be served concurrently with & 60 months of which shall be served consecutively with the Massachusetts State sentence now being served. It is further ordered that defendant is committed to the Bureau of Prisons to be imprisoned for a term of 120 months on each of Counts 3, 4 & 5, such terms to be served concurrently with each other and with the sentence on Count 1, and effective this date, concurrently with the Massachusetts state sentence now being served. It is further ordered that the defendant is hereby committed to the Bureau of Prisons to be imprisoned for a term of 60 months on Count 2, said sentence to be served consecutively to the instant federal sentence on Counts 1, 3, 4 & 5 and consecutively with the Massachusetts State sentence now being served; Supervised Release for 5 years on Count 1 and terms of 3 years on each of counts 3,4 & 5, all such terms to run concurrently w/standard conditions; Special Conditions, to provided any financial info, shall not incur new credit charges, shall participate in drug/alcohol treatment program, abstain from alcohol, shall participate in mental health treatment program, shall submit to searches, shall not possess or have under his control any dangerous weapons; Special Penalty Assessment \$500; Restitution \$2,000 to Amica Mutual Insurance Co, \$500 due immediately, balance 30 days after date of judgment in installments; Remanded to US Marshall. (Signed by Judge Steven J. McAuliffe) (amm) (Entered: 04/05/2001)
05/09/2001	78	FINAL CJA 20 Authorization to pay David H. Bownes for defendant Chad E. Austin; Amount: \$704.10 re: [73-1] cja appointment (Signed by Judge Steven J. McAuliffe) (jeb) (Entered: 05/10/2001)
11/13/2001	79	MOTION by Chad E. Austin for copies of in-camera transcript and audio tape (amm) (Entered: 11/14/2001)
11/19/2001		ENDORSED ORDER as to Chad E. Austin granting [79-1] motion for copies of in-camera transcript and audio tape as to Chad E. Austin (1) (Entered by Judge Steven J. McAuliffe) (amm) (Entered: 11/19/2001)
01/02/2002	80	MOTION by Chad E. Austin to Vacate under 28 U.S.C. 2255 (See Civil Case # C.02-1-M). (jeb) (Entered: 01/02/2002)
05/01/2002	84	MOTION by Chad E. Austin for Correction of Remanded Amended Judgment "Clerical Mistakes" clerk's office forwarded copy of pleading to USA 5/2/03; Objections to Motion due by 5/19/03 for USA (jab) (Entered: 05/02/2003)
03/12/2003	81	MOTION by Chad E. Austin For Correction of Sentence and Writ of Habeas Corpus to be Brought before this Court for Correction of Sentence served, in hand (by clerk's office) on 3/12/03; Objections to Motion due by 3/26/03 for USA (jab) (Entered:

		03/12/2003)
03/17/2003	82	OBJECTION by USA as to Chad E. Austin re: [81-1] motion For Correction of Sentence and Writ of Habeas Corpus to be Brought before this Court for Correction of Sentence (jab) (Entered: 03/17/2003)
03/26/2003	83	RESPONSE to [82-1] motion objection by Chad E. Austin . (jab) (Entered: 03/26/2003)
04/18/2003		ENDORSED ORDER as to Chad E. Austin denying [81-1] motion For Correction of Sentence and Writ of Habeas Corpus to be Brought before this Court for Correction of Sentence as to Chad E. Austin (1) (Entered by Judge Steven J. McAuliffe) (jab) (Entered: 04/21/2003)
04/22/2003		ENDORSED ORDER as to Chad E. Austin denying [83-1] response/motion to clear up facts as to Chad E. Austin (1) (Entered by Judge Steven J. McAuliffe) (jab) (Entered: 04/22/2003)
05/23/2003		ENDORSED ORDER as to Chad E. Austin denying [84-1] motion for Correction of Remanded Amended Judgment "Clerical Mistakes" as to Chad E. Austin (1). Motion denied. See doc. no. 77, Amended Judgment dated 4/5/01. (Entered by Judge Steven J. McAuliffe) (jab) (Entered: 05/23/2003)
01/06/2004	84	File located at National Archives and Records Administration (NARA), Waltham, MA. Transfer No. 021-04-0015, Location No. C13582, Box No. 5 (jeb,) (Entered: 01/06/2004)
03/11/2013	85	MOTION To Correct Illegal Sentence by Chad E. Austin. Served on 3/8/2013. Follow up on Objection on 3/28/2013. (Attachments: # <u>1</u> Memorandum of Law, # <u>2</u> Appendix - List of Exhibits, # <u>3</u> Exhibit 1 - Excerpts from Sentencing Transcript, pgs. 46-53, # <u>4</u> Exhibit 2 - Defendant's Memorandum and Order re: Motion to Correct Illegal Sentences in MA State Court, # <u>5</u> Exhibit 3 - Commonwealth of MA - Essex Superior Court - Case Summary (see pg. 7 - verification of defendant's present sentence.) (jab) (Entered: 03/11/2013)
03/13/2013	86	ADDENDUM/Cover Letter re: 85 MOTION To Correct Illegal Sentence re 77 Amended Judgment by Chad E. Austin. (jab) (Entered: 03/13/2013)
04/03/2013	87	OBJECTION by USA as to Chad E. Austin re 85 MOTION To Correct Illegal Sentence re 77 Amended Judgment, , , , , . (Feith, Donald) (Entered: 04/03/2013)
04/04/2013	88	ENDORSED ORDER denying 85 MOTION To Correct Illegal Sentence re 77 Amended Judgment as to Chad E. Austin (1). <i>Text of Order: Denied.</i> So Ordered by Judge Steven J. McAuliffe. (jab) (Entered: 04/04/2013)
04/15/2013	88	NOTICE OF APPEAL by Chad E. Austin re Order on Motion MOTION To Correct Illegal Sentence - Filing fee not paid. File-stamped copy to be sent to parties/USCA by Clerks Office. NOTICE TO COUNSEL: Counsel should register for a First Circuit CM/ECF Appellate Filer Account at http://pacer.psc.uscourts.gov/cmecf/ . Counsel and pro se parties should also review the First Circuit requirements for electronic filing by visiting the CM/ECF Information section at http://www.ca1.uscourts.gov/efiling.htm (jab) (Entered: 04/15/2013)
04/18/2013	89	Appeal Cover Sheet as to Chad E. Austin re 88 Notice of Appeal. (jab) (Entered: 04/18/2013)
04/18/2013	90	Clerk's Certificate transmitting Record on Appeal to US Court of Appeals, documents numbered 85, 86, 87, Endorsed Order on Doc. No. 85, 88 and 89, as to Chad E. Austin to USCA re 88 Notice of Appeal. Presentence Investigation Report is attached in a sealed

		envelope. A copy of the Notice of Appeal mailed to all parties this date. (jab) (Entered: 04/18/2013)
04/18/2013		Appellate Case Number: 13-1485 CCA for <u>88</u> Notice of Appeal filed by Chad E. Austin. (jab) (Entered: 04/18/2013)

EXHIBIT



1998 Federal Sentencing Guideline Manual
Chapter Five - Determining the Sentence
Part G Implementing the TOTAL Sentence
OF Imprisonment

§5G1.3. Imposition of a Sentence on a Defendant Subject to an Undischarged Term of Imprisonment

- (a) If the instant offense was committed while the defendant was serving a term of imprisonment (including work release, furlough, or escape status) or after sentencing for, but before commencing service of, such term of imprisonment, the sentence for the instant offense shall be imposed to run consecutively to the undischarged term of imprisonment.
- (b) If subsection (a) does not apply, and the undischarged term of imprisonment resulted from offense(s) that have been fully taken into account in the determination of the offense level for the instant offense, the sentence for the instant offense shall be imposed to run concurrently to the undischarged term of imprisonment.
- (c) (Policy Statement) In any other case, the sentence for the instant offense may be imposed to run concurrently, partially concurrently, or consecutively to the prior undischarged term of imprisonment to achieve a reasonable punishment for the instant offense.

Commentary

Application Notes:

1. *Consecutive sentence - subsection (a) cases. Under subsection (a), the court shall impose a consecutive sentence when the instant offense was committed while the defendant was serving an undischarged term of imprisonment or after sentencing for, but before commencing service of, such term of imprisonment.*
2. *Adjusted concurrent sentence - subsection (b) cases. When a sentence is imposed pursuant to subsection (b), the court should adjust the sentence for any period of imprisonment already served as a result of the conduct taken into account in determining the guideline range for the instant offense if the court determines that period of imprisonment will not be credited to the federal sentence by the Bureau of Prisons. Example: The defendant is convicted of a federal offense charging the sale of 30 grams of cocaine. Under §1B1.3 (Relevant Conduct), the defendant is held accountable for the sale of an additional 15 grams of cocaine, an offense for which the defendant has been convicted and sentenced in state court. The defendant received a nine-month sentence of imprisonment for the state offense and has served six months on that sentence at the time of sentencing on the instant federal offense. The guideline range applicable to the defendant is 10-16 months (Chapter Two offense level of 14 for sale of 45 grams of cocaine; 2-level reduction for acceptance of responsibility; final offense level of 12; Criminal History Category I). The court determines that a sentence of 13 months provides the appropriate total punishment. Because the defendant has already served six months on the related state charge as of the*

date of sentencing on the instant federal offense, a sentence of seven months, imposed to run concurrently with the three months remaining on the defendant's state sentence, achieves this result. For clarity, the court should note on the Judgment in a Criminal Case Order that the sentence imposed is not a departure from the guideline range because the defendant has been credited for guideline purposes under §5G1.3(b) with six months served in state custody that will not be credited to the federal sentence under 18 U.S.C. § 3585(b).

3. Concurrent or consecutive sentence - subsection (c) cases. In circumstances not covered undersubsection (a) or (b), subsection (c) applies. Under this subsection, the court may impose a sentence concurrently, partially concurrently, or consecutively. To achieve a reasonable punishment and avoid unwarranted disparity, the court should consider the factors set forth in 18 U.S.C. § 3584 (referencing 18 U.S.C. § 3553(a)) and be cognizant of:

- (a) the type (e.g., determinate, indeterminate/parolable) and length of the prior undischarged sentence;*
- (b) the time served on the undischarged sentence and the time likely to be served before release;*
- (c) the fact that the prior undischarged sentence may have been imposed in state court rather than federal court, or at a different time before the same or different federal court; and*
- (d) any other circumstance relevant to the determination of an appropriate sentence for the instant offense.*

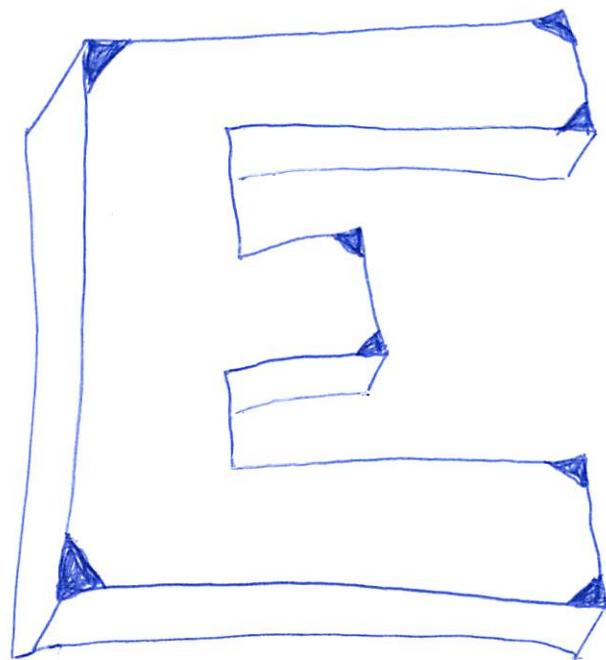
4. Partially concurrent sentence. In some cases under subsection (c), a partially concurrent sentence may achieve most appropriately the desired result. To impose a partially concurrent sentence, the court may provide in the Judgment in a Criminal Case Order that the sentence for the instant offense shall commence (A) when the defendant is released from the prior undischarged sentence, or (B) on a specified date, whichever is earlier. This order provides for a fully consecutive sentence if the defendant is released on the undischarged term of imprisonment on or before the date specified in the order, and a partially concurrent sentence if the defendant is not released on the undischarged term of imprisonment by that date.

5. Complex situations. Occasionally, the court may be faced with a complex case in which a defendant may be subject to multiple undischarged terms of imprisonment that seemingly call for the application of different rules. In such a case, the court may exercise its discretion in accordance with subsection (c) to fashion a sentence of appropriate length and structure it to run in any appropriate manner to achieve a reasonable punishment for the instant offense.

Historical Sentencing Guidelines Manuals

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EXHIBIT



BERHN 540*23 * * SENTENCE MONITORING * 03-20-2020
PAGE 001 * COMPUTATION DATA * 14:49:34
AS OF 03-20-2020

REGNO.: 02205-049 NAME: AUSTIN, CHAD E

FBI NO.....: 570634PAS DATE OF BIRTH: 06-14-1973 AGE: 46
ARS1.....: BER/A-DES
UNIT.....: B UNIT QUARTERS.....: B02-201U
DETAINERS.....: NO NOTIFICATIONS: NO

HOME DETENTION ELIGIBILITY DATE: 09-07-2024

THE FOLLOWING SENTENCE DATA IS FOR THE INMATE'S CURRENT COMMITMENT.
THE INMATE IS PROJECTED FOR RELEASE: 03-07-2025 VIA GCT REL

-----COURT JUDGMENT/WARRANT NO: 010 -----

COURT OF JURISDICTION.....: NEW HAMPSHIRE
DOCKET NUMBER.....: 1:98CR00131-001
JUDGE.....: MCAULIFFE
DATE SENTENCED/PROBATION IMPOSED: 11-12-1999
DATE COMMITTED.....: 12-19-2016
HOW COMMITTED.....: US DISTRICT COURT COMMITMENT
PROBATION IMPOSED.....: NO

FELONY ASSESS	MISDMNR ASSESS	FINES	COSTS
NON-COMMITTED.: \$500.00	\$00.00	\$00.00	\$00.00

RESTITUTION...: PROPERTY: NO SERVICES: NO AMOUNT: \$2,000.00

-----COURT OBLIGATION NO: 010 -----

OFFENSE CODE....: 551 18:2113 ROBBERY BANK
OFF/CHG: 18:2113 (A) (D) :BANK ROBBERY

SENTENCE PROCEDURE.....: 3559 PLRA SENTENCE
SENTENCE IMPOSED/TIME TO SERVE.: 115 MONTHS
TERM OF SUPERVISION.....: 5 YEARS
NEW SENTENCE IMPOSED.....: 102 MONTHS
BASIS FOR CHANGE.....: COURT ORDER MODIFYING SENTENCE
RELATIONSHIP OF THIS OBLIGATION
TO OTHERS FOR THE OFFENDER....: 60MOS CS STATE
DATE OF OFFENSE.....: 02-11-1998

BERHN 540*23 *
PAGE 002 *

SENTENCE MONITORING
COMPUTATION DATA
AS OF 03-20-2020

* 03-20-2020
* 14:49:34

REGNO..: 02205-049 NAME: AUSTIN, CHAD E

-----CURRENT OBLIGATION NO: 020 -----
OFFENSE CODE....: 130 18:924(C) FIREARMS LAWS FSA INELIGIBLE
OFF/CHG: 18:924(C):USE OF A FIREARM IN A CRIME OF VIOLENCE

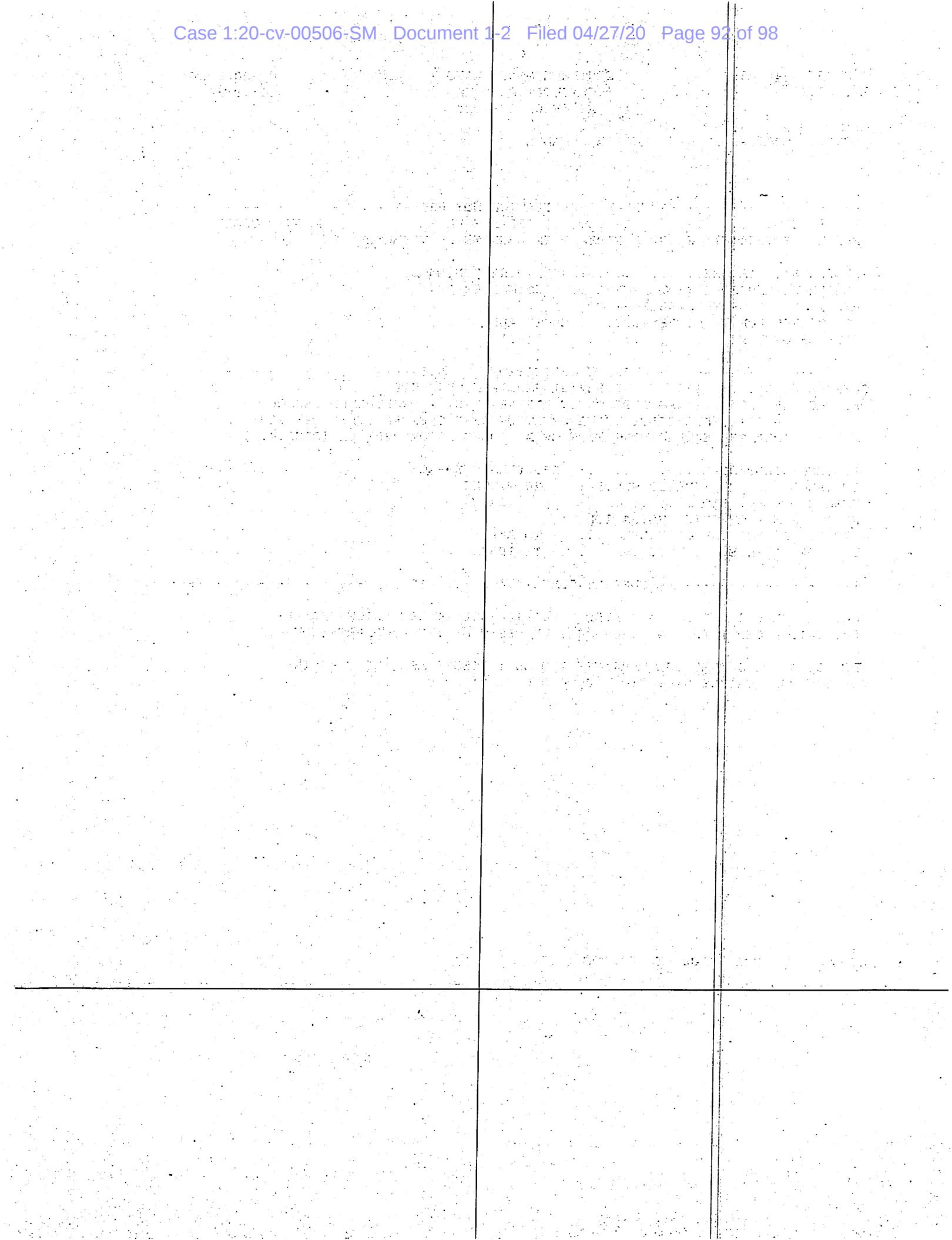
SENTENCE PROCEDURE.....: 3559 PLRA SENTENCE
SENTENCE IMPOSED/TIME TO SERVE.: 60 MONTHS
RELATIONSHIP OF THIS OBLIGATION
TO OTHERS FOR THE OFFENDER....: CS TO ALL
DATE OF OFFENSE.....: 02-11-1998

-----CURRENT OBLIGATION NO: 030 -----
OFFENSE CODE....: 136 18:922(G) FIREARMS,GUN CNTL
OFF/CHG: 18:922(G) (1):POSSESSION OF A FIREARM BY A PROHIBITED PERSON
18:2314:INTERSTATE TRANSPORTATION OF STOLEN PROPERTY 18:2312:
INTERSTATE TRANSPORTATION OF A STOLEN MOTOR VEHICLE (CTS3,4,5)

SENTENCE PROCEDURE.....: 3559 PLRA SENTENCE
SENTENCE IMPOSED/TIME TO SERVE.: 120 MONTHS
TERM OF SUPERVISION.....: 3 YEARS
RELATIONSHIP OF THIS OBLIGATION
TO OTHERS FOR THE OFFENDER....: CC TO ALL
DATE OF OFFENSE.....: 02-11-1998

-----CURRENT COMPUTATION NO: 010 -----
COMPUTATION 010 WAS LAST UPDATED ON 03-10-2020 AT DSC AUTOMATICALLY
COMPUTATION CERTIFIED ON 10-03-2017 BY DESIG/SENTENCE COMPUTATION CTR

THE FOLLOWING JUDGMENTS, WARRANTS AND OBLIGATIONS ARE INCLUDED IN
CURRENT COMPUTATION 010: 010 010, 010 020, 010 030



BERHN 540*23 *
PAGE 003 OF 003 *

SENTENCE MONITORING
COMPUTATION DATA
AS OF 03-20-2020

* 03-20-2020
* 14:49:34

REGNO...: 02205-049 NAME: AUSTIN, CHAD E

DATE COMPUTATION BEGAN.....: 06-02-2009
AGGREGATED SENTENCE PROCEDURE...: AGGREGATE GROUP 800 PLRA
TOTAL TERM IN EFFECT.....: 222 MONTHS
TOTAL TERM IN EFFECT CONVERTED...: 18 YEARS 6 MONTHS
AGGREGATED TERM OF SUPERVISION...: 5 YEARS
EARLIEST DATE OF OFFENSE.....: 02-11-1998

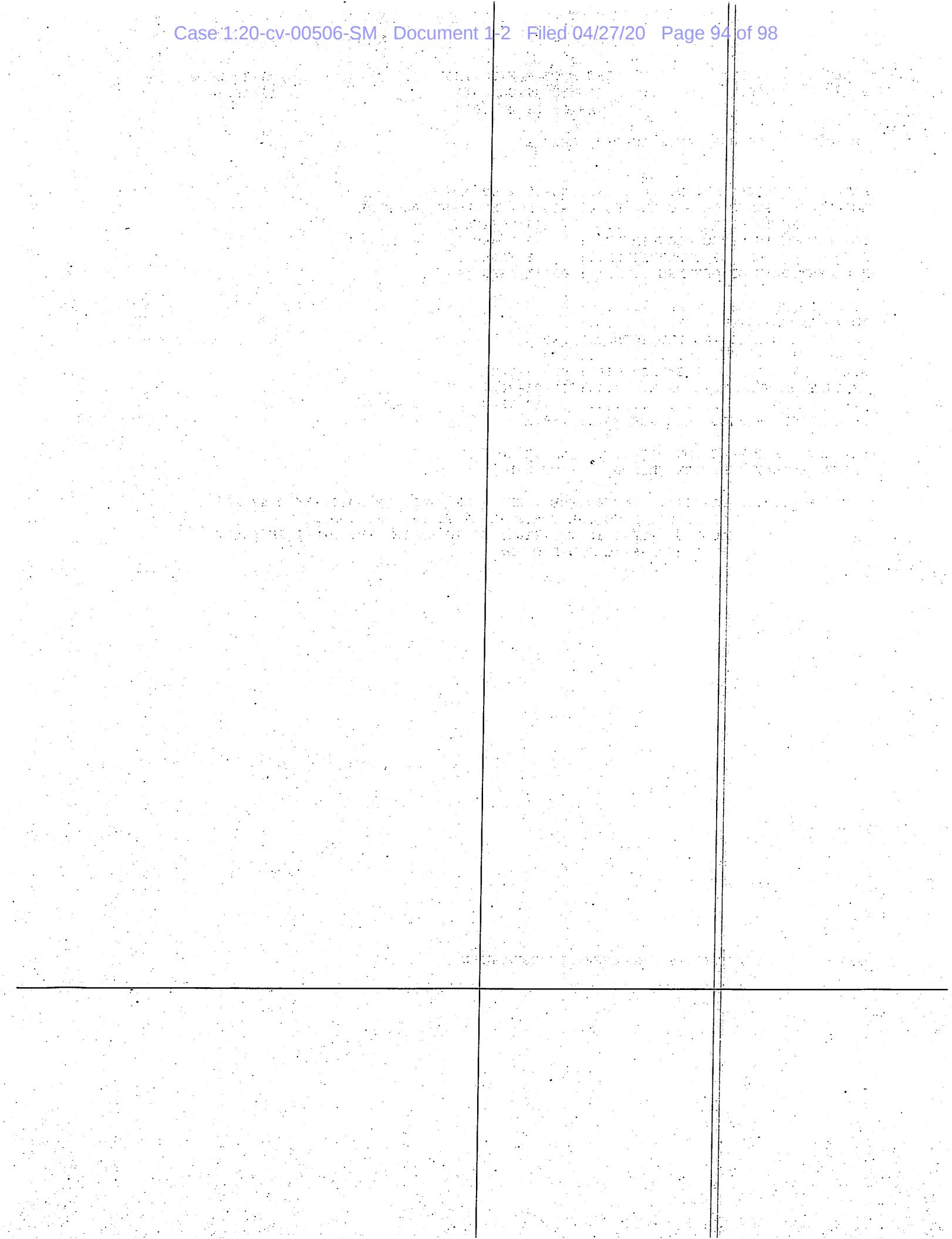
TOTAL PRIOR CREDIT TIME.....: 0
TOTAL INOPERATIVE TIME.....: 0
TOTAL GCT EARNED AND PROJECTED...: 999
TOTAL GCT EARNED.....: 540
STATUTORY RELEASE DATE PROJECTED: 03-07-2025
EXPIRATION FULL TERM DATE.....: 12-01-2027
TIME SERVED.....: 10 YEARS 9 MONTHS 19 DAYS
PERCENTAGE OF FULL TERM SERVED...: 58.3

PROJECTED SATISFACTION DATE.....: 03-07-2025
PROJECTED SATISFACTION METHOD...: GCT REL

REMARKS.....: 01-26-17:COMP ENTERED, REL FROM STATE ON 10-28-16 & 120MOS
CONSECUTIVE TO THE STATE REFER TO PSIN'S. JDB/D
COURTS INTENT IS 120M(10Y) CS TO STATE, SEE OTH-2 IN FILE.
3-10-20: FSA/GCT UPD D/JNW

G0000

TRANSACTION SUCCESSFULLY COMPLETED



BERHN 542*22 *
 PAGE 001 OF 001 *

SENTENCE MONITORING
 GOOD TIME DATA
 AS OF 03-20-2020

* 03-20-2020
 * 14:49:47

REGNO...: 02205-049 NAME: AUSTIN, CHAD E

ARS 1...: BER A-DES

COMPUTATION NUMBER...: 010

LAST UPDATED: DATE.: 03-10-2020

UNIT.....: B UNIT

DATE COMP BEGINS....: 06-02-2009

TOTAL JAIL CREDIT....: 0

CURRENT REL DT.....: 06-09-2026 TUE

PROJ SATISFACT DT...: 03-07-2025 FRI

ACTUAL SATISFACT DT.:

DAYS REMAINING.....:

GED PART STATUS.....:

PLRA

PRT ACT DT:

FACL...: DSC CALC: AUTOMATIC

QUARTERS.....: B02-201U

COMP STATUS.....: COMPLETE

TOTAL INOP TIME....: 0

EXPIRES FULL TERM DT: 12-01-2027

PROJ SATISF METHOD..: GCT REL

ACTUAL SATISF METHOD:

FINAL PUBLIC LAW DAYS:

DEPORT ORDER DATED..:

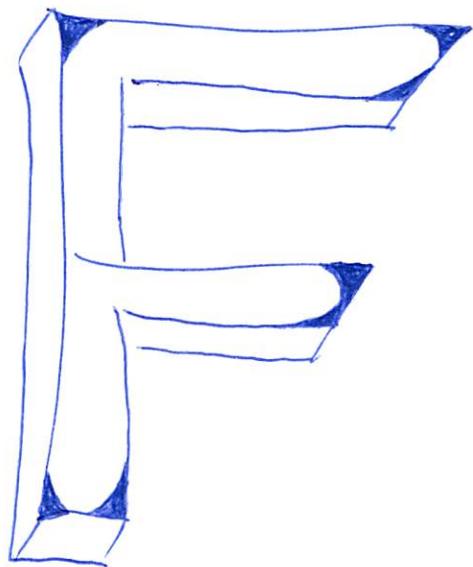
-----GOOD CONDUCT TIME AMOUNTS-----

START DATE	STOP DATE	MAX POSSIBLE TO DIS	MAX POSSIBLE TO FFT	ACTUAL TOTALS DIS	ACTUAL TOTALS FFT	VESTED AMOUNT	VESTED DATE
06-02-2009	06-01-2010	54	54				
06-02-2010	06-01-2011	54	108				
06-02-2011	06-01-2012	54	162				
06-02-2012	06-01-2013	54	216				
06-02-2013	06-01-2014	54	270				
06-02-2014	06-01-2015	54	324				
06-02-2015	06-01-2016	54	378				
06-02-2016	06-01-2017	54	432				
06-02-2017	06-01-2018	54	486				
06-02-2018	06-01-2019	54	540				
06-02-2019	06-01-2020	54					
06-02-2020	06-01-2021	54					
06-02-2021	06-01-2022	54					
06-02-2022	06-01-2023	54					
06-02-2023	06-01-2024	54					
06-02-2024	06-01-2025	54					
06-02-2025	06-01-2026	54					
06-02-2026	06-01-2027	54					
06-02-2027	12-01-2027	27					
						TOTAL EARNED AMOUNT.....	540
						TOTAL EARNED AND PROJECTED AMOUNT.....	999

G0005

TRANSACTION SUCCESSFULLY COMPLETED - CONTINUE PROCESSING IF DESIRED

EXHIBIT



BP-A0148
JUNE 10

U.S. DEPARTMENT OF JUSTICE

INMATE REQUEST TO STAFF CDFRM

FEDERAL BUREAU OF PRISONS

TO: (Name and Title of Staff Member) R&D STAFF (In Re: Sentence Comp.)	DATE: 2/4/20
FROM: CHAD E. AUSTIN	REGISTER NO.: 02205-049
WORK ASSIGNMENT: UNASSIGNED	UNIT: B2

SUBJECT: (Briefly state your question or concern and the solution you are requesting. Continue on back, if necessary. Your failure to be specific may result in no action being taken. If necessary, you will be interviewed in order to successfully respond to your request. Please advise how FBOP begins my Sentence Computation at 6/2/09

where the term of Federal confinement was imposed on 11/12/99. The term of Federal confinement was imposed concurrently on 11/12/99 -- it began that day and ran uninterrupted from that date. Thus, I have now served over 20 years directly on the instant term of Federal confinement. The Sentencing Court imposed this Federal term of confinement concurrently pursuant 18 U.S.C. § 3584. Thus, I have now completed all terms of confinement -- both Federally and in Massachusetts -- and am entitled to immediate release. The current sentence computation is in error. Please issue a new sentence computation in accordance with the proper 1999 effective date as set forth on the Judgment & Commitment. (See Attached)

--Thank you.

//s// Chad E. Austin

(Do not write below this line)

DISPOSITION: according to your sentence comp certified 10/2017 shows your comp started 6-2-09 w/ your projected release date 7/14/25 w/ Full term 12/1/27.

Signature Staff Member 	Date 3/10/20
---	--------------

Record Copy - File; Copy - Inmate

PDF

Prescribed by F5511

This form replaces BP-148.070 dated Oct 86
and BP-S148.070 APR 94